

1 **TITLE XV—CLEAN RENEWABLE**
2 **ENERGY AND CONSERVATION**
3 **TAX ACT OF 2007**

4 **SEC. 1500. SHORT TITLE; AMENDMENT OF 1986 CODE.**

5 (a) SHORT TITLE.—This title may be cited as the
6 “Clean Renewable Energy and Conservation Tax Act of
7 2007”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this title an amend-
10 ment or repeal is expressed in terms of an amendment
11 to, or repeal of, a section or other provision, the reference
12 shall be considered to be made to a section or other provi-
13 sion of the Internal Revenue Code of 1986.

14 **Subtitle A—Clean Renewable**
15 **Energy Production Incentives**

16 **PART I—PROVISIONS RELATING TO RENEWABLE**
17 **ENERGY**

18 **SEC. 1501. EXTENSION AND MODIFICATION OF RENEWABLE**
19 **ELECTRICITY AND REFINED COAL PRODUC-**
20 **TION CREDIT.**

21 (a) EXTENSION.—

22 (1) IN GENERAL.—Section 45(d) (relating to
23 qualified facilities) is amended by striking “January

1 1, 2009” each place it appears in paragraphs (1),
2 (2), (3), (4), (5), (6), (7), (8), and (9) and inserting
3 “January 1, 2011”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by this subsection shall take effect on the date of the
6 enactment of this Act.

7 (b) MODIFICATION OF REFINED COAL AS A QUALI-
8 FIED ENERGY RESOURCE.—

9 (1) ELIMINATION OF INCREASED MARKET
10 VALUE TEST.—Section 45(c)(7)(A) (defining refined
11 coal) is amended—

12 (A) by striking clause (iv),

13 (B) by adding “and” at the end of clause
14 (ii), and

15 (C) by striking “, and” at the end of
16 clause (iii) and inserting a period.

17 (2) INCREASE IN REQUIRED EMISSION REDUC-
18 TION.—Section 45(c)(7)(B) (defining qualified emis-
19 sion reduction) is amended by inserting “at least 40
20 percent of the emissions of” after “nitrogen oxide
21 and”.

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to coal produced and
24 sold after December 31, 2007.

1 (c) CREDIT ALLOWED FOR ON-SITE USE OF ELEC-
2 TRICITY PRODUCED FROM BIOMASS.—

3 (1) ON-SITE USE.—Section 45(e) (relating to
4 definitions and special rules) is amended by adding
5 at the end the following new paragraph:

6 “(12) CREDIT ALLOWED FOR ON-SITE USE OF
7 ELECTRICITY PRODUCED FROM BIOMASS.—In the
8 case of electricity produced after December 31,
9 2007, at any facility described in paragraph (2) or
10 (3) which is equipped with net metering to deter-
11 mine electricity consumption or sale (such consump-
12 tion or sale to be verified by a third party as deter-
13 mined by the Secretary), subsection (a)(2) shall be
14 applied without regard to subparagraph (B) there-
15 of.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by this subsection shall take effect on the date of the
18 enactment of this Act.

19 (d) EXPANSION OF RESOURCES TO WAVE, CURRENT,
20 TIDAL, AND OCEAN THERMAL ENERGY.—

21 (1) IN GENERAL.—Section 45(c)(1) (defining
22 qualified energy resources) is amended by striking
23 “and” at the end of subparagraph (G), by striking
24 the period at the end of subparagraph (H) and in-

1 serting “, and”, and by adding at the end the fol-
2 lowing new subparagraph:

3 “(I) wave, current, tidal, and ocean ther-
4 mal energy.”.

5 (2) DEFINITION OF RESOURCES.—Section 45(c)
6 is amended by adding at the end the following new
7 paragraph:

8 “(10) WAVE, CURRENT, TIDAL, AND OCEAN
9 THERMAL ENERGY.—The term ‘wave, current, tidal,
10 and ocean thermal energy’ means electricity pro-
11 duced from any of the following:

12 “(A) Free flowing ocean water derived
13 from tidal currents, ocean currents, waves, or
14 estuary currents.

15 “(B) Ocean thermal energy.”.

16 (3) FACILITIES.—Section 45(d) is amended by
17 adding at the end the following new paragraph:

18 “(11) WAVE, CURRENT, TIDAL, AND OCEAN
19 THERMAL FACILITY.—In the case of a facility using
20 resources described in subparagraph (A), (B), or (C)
21 of subsection (c)(10) to produce electricity, the term
22 ‘qualified facility’ means any facility owned by the
23 taxpayer which is originally placed in service after
24 the date of the enactment of this paragraph and be-
25 fore January 1, 2011, but such term shall not in-

1 clude a facility which includes impoundment struc-
2 tures or a small irrigation power facility.”.

3 (4) CREDIT RATE.—Section 45(b)(4)(A) (relat-
4 ing to credit rate) is amended by striking “or (9)”
5 and inserting “(9), or (11)”.

6 (5) EFFECTIVE DATE.—The amendments made
7 by this subsection shall take effect on the date of the
8 enactment of this Act.

9 (e) TRASH FACILITY CLARIFICATION.—

10 (1) IN GENERAL.—Paragraph (7) of section
11 45(d) is amended—

12 (A) by striking “facility which burns” and
13 inserting “facility (other than a facility de-
14 scribed in paragraph (6)) which uses”, and

15 (B) by striking “COMBUSTION”.

16 (2) EFFECTIVE DATE.—The amendments made
17 by this subsection shall apply to electricity produced
18 and sold before, on, or after December 31, 2007.

19 **SEC. 1502. EXTENSION AND MODIFICATION OF ENERGY**
20 **CREDIT.**

21 (a) EXTENSION OF CREDIT.—

22 (1) SOLAR ENERGY PROPERTY.—Paragraphs
23 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating
24 to energy credit) are each amended by striking

1 “January 1, 2009” and inserting “January 1,
2 2017”.

3 (2) FUEL CELL PROPERTY.—Subparagraph (E)
4 of section 48(c)(1) (relating to qualified fuel cell
5 property) is amended by striking “December 31,
6 2008” and inserting “December 31, 2016”.

7 (3) MICROTURBINE PROPERTY.—Subparagraph
8 (E) of section 48(c)(2) (relating to qualified micro-
9 turbine property) is amended by striking “December
10 31, 2008” and inserting “December 31, 2016”.

11 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
12 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
13 38(c)(4) (relating to specified credits) is amended by strik-
14 ing “and” at the end of clause (iii), by striking the period
15 at the end of clause (iv) and inserting “, and”, and by
16 adding at the end the following new clause:

17 “(v) the credit determined under sec-
18 tion 46 to the extent that such credit is at-
19 tributable to the energy credit determined
20 under section 48.”.

21 (c) ENERGY CREDIT FOR COMBINED HEAT AND
22 POWER SYSTEM PROPERTY.—

23 (1) IN GENERAL.—Section 48(a)(3)(A) (defin-
24 ing energy property) is amended by striking “or” at
25 the end of clause (iii), by inserting “or” at the end

1 of clause (iv), and by adding at the end the following
2 new clause:

3 “(v) combined heat and power system
4 property,”.

5 (2) COMBINED HEAT AND POWER SYSTEM
6 PROPERTY.—Section 48 (relating to energy credit;
7 reforestation credit) is amended by adding at the
8 end the following new subsection:

9 “(d) COMBINED HEAT AND POWER SYSTEM PROP-
10 ERTY.—For purposes of subsection (a)(3)(A)(v)—

11 “(1) COMBINED HEAT AND POWER SYSTEM
12 PROPERTY.—The term ‘combined heat and power
13 system property’ means property comprising a sys-
14 tem—

15 “(A) which uses the same energy source
16 for the simultaneous or sequential generation of
17 electrical power, mechanical shaft power, or
18 both, in combination with the generation of
19 steam or other forms of useful thermal energy
20 (including heating and cooling applications),

21 “(B) which produces—

22 “(i) at least 20 percent of its total
23 useful energy in the form of thermal en-
24 ergy which is not used to produce electrical

1 or mechanical power (or combination
2 thereof), and

3 “(ii) at least 20 percent of its total
4 useful energy in the form of electrical or
5 mechanical power (or combination thereof),

6 “(C) the energy efficiency percentage of
7 which exceeds 60 percent, and

8 “(D) which is placed in service before Jan-
9 uary 1, 2017.

10 “(2) LIMITATION.—

11 “(A) IN GENERAL.—In the case of com-
12 bined heat and power system property with an
13 electrical capacity in excess of the applicable ca-
14 pacity placed in service during the taxable year,
15 the credit under subsection (a)(1) (determined
16 without regard to this paragraph) for such year
17 shall be equal to the amount which bears the
18 same ratio to such credit as the applicable ca-
19 pacity bears to the capacity of such property.

20 “(B) APPLICABLE CAPACITY.—For pur-
21 poses of subparagraph (A), the term ‘applicable
22 capacity’ means 15 megawatts or a mechanical
23 energy capacity of more than 20,000 horse-
24 power or an equivalent combination of electrical
25 and mechanical energy capacities.

1 “(C) MAXIMUM CAPACITY.—The term
2 ‘combined heat and power system property’
3 shall not include any property comprising a sys-
4 tem if such system has a capacity in excess of
5 50 megawatts or a mechanical energy capacity
6 in excess of 67,000 horsepower or an equivalent
7 combination of electrical and mechanical energy
8 capacities.

9 “(3) SPECIAL RULES.—

10 “(A) ENERGY EFFICIENCY PERCENT-
11 AGE.—For purposes of this subsection, the en-
12 ergy efficiency percentage of a system is the
13 fraction—

14 “(i) the numerator of which is the
15 total useful electrical, thermal, and me-
16 chanical power produced by the system at
17 normal operating rates, and expected to be
18 consumed in its normal application, and

19 “(ii) the denominator of which is the
20 lower heating value of the fuel sources for
21 the system.

22 “(B) DETERMINATIONS MADE ON BTU
23 BASIS.—The energy efficiency percentage and
24 the percentages under paragraph (1)(B) shall
25 be determined on a Btu basis.

1 “(C) INPUT AND OUTPUT PROPERTY NOT
2 INCLUDED.—The term ‘combined heat and
3 power system property’ does not include prop-
4 erty used to transport the energy source to the
5 facility or to distribute energy produced by the
6 facility.

7 “(4) SYSTEMS USING BIOMASS.—If a system is
8 designed to use biomass (within the meaning of
9 paragraphs (2) and (3) of section 45(c) without re-
10 gard to the last sentence of paragraph (3)(A)) for at
11 least 90 percent of the energy source—

12 “(A) paragraph (1)(C) shall not apply, but

13 “(B) the amount of credit determined
14 under subsection (a) with respect to such sys-
15 tem shall not exceed the amount which bears
16 the same ratio to such amount of credit (deter-
17 mined without regard to this paragraph) as the
18 energy efficiency percentage of such system
19 bears to 60 percent.”.

20 (d) INCREASE OF CREDIT LIMITATION FOR FUEL
21 CELL PROPERTY.—Subparagraph (B) of section 48(c)(1)
22 is amended by striking “\$500” and inserting “\$1,500”.

23 (e) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN
24 INTO ACCOUNT.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 48(a) is amended by striking the second sentence
3 thereof.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Paragraph (1) of section 48(c) is
6 amended by striking subparagraph (D) and re-
7 designating subparagraph (E) as subparagraph
8 (D).

9 (B) Paragraph (2) of section 48(c) is
10 amended by striking subparagraph (D) and re-
11 designating subparagraph (E) as subparagraph
12 (D).

13 (f) CLERICAL AMENDMENTS.—Paragraphs (1)(B)
14 and (2)(B) of section 48(c) are each amended by striking
15 “paragraph (1)” and inserting “subsection (a)”.

16 (g) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the amendments made by
19 this section shall take effect on the date of the en-
20 actment of this Act.

21 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
22 IMUM TAX.—The amendments made by subsection
23 (b) shall apply to credits determined under section
24 46 of the Internal Revenue Code of 1986 in taxable

1 years beginning after the date of the enactment of
2 this Act and to carrybacks of such credits.

3 (3) COMBINED HEAT AND POWER AND FUEL
4 CELL PROPERTY.—The amendments made by sub-
5 sections (c) and (d) shall apply to periods after the
6 date of the enactment of this Act, in taxable years
7 ending after such date, under rules similar to the
8 rules of section 48(m) of the Internal Revenue Code
9 of 1986 (as in effect on the day before the date of
10 the enactment of the Revenue Reconciliation Act of
11 1990).

12 (4) PUBLIC ELECTRIC UTILITY PROPERTY.—
13 The amendments made by subsection (e) shall apply
14 to periods after June 20, 2007, in taxable years end-
15 ing after such date, under rules similar to the rules
16 of section 48(m) of the Internal Revenue Code of
17 1986 (as in effect on the day before the date of the
18 enactment of the Revenue Reconciliation Act of
19 1990).

20 **SEC. 1503. EXTENSION AND MODIFICATION OF CREDIT FOR**
21 **RESIDENTIAL ENERGY EFFICIENT PROP-**
22 **ERTY.**

23 (a) EXTENSION.—Section 25D(g) (relating to termi-
24 nation) is amended by striking “December 31, 2008” and
25 inserting “December 31, 2014”.

1 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-
2 erty.—

3 (1) IN GENERAL.—Section 25D(b)(1)(A) (relat-
4 ing to maximum credit) is amended by striking
5 “\$2,000” and inserting “\$4,000”.

6 (2) CONFORMING AMENDMENT.—Section
7 25D(e)(4)(A)(i) is amended by striking “\$6,667”
8 and inserting “\$13,334”.

9 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

10 (1) IN GENERAL.—Section 25D(a) (relating to
11 allowance of credit) is amended by striking “and” at
12 the end of paragraph (2), by striking the period at
13 the end of paragraph (3) and inserting “, and”, and
14 by adding at the end the following new paragraph:

15 “(4) 30 percent of the qualified small wind en-
16 ergy property expenditures made by the taxpayer
17 during such year.”.

18 (2) LIMITATION.—Section 25D(b)(1) (relating
19 to maximum credit) is amended by striking “and” at
20 the end of subparagraph (B), by striking the period
21 at the end of subparagraph (C) and inserting “,
22 and”, and by adding at the end the following new
23 subparagraph:

24 “(D) \$500 with respect to each half kilo-
25 watt of capacity (not to exceed \$4,000) of wind

1 turbines for which qualified small wind energy
2 property expenditures are made.”.

3 (3) QUALIFIED SMALL WIND ENERGY PROP-
4 ERTY EXPENDITURES.—

5 (A) IN GENERAL.—Section 25D(d) (relat-
6 ing to definitions) is amended by adding at the
7 end the following new paragraph:

8 “(4) QUALIFIED SMALL WIND ENERGY PROP-
9 ERTY EXPENDITURE.—The term ‘qualified small
10 wind energy property expenditure’ means an expend-
11 iture for property which uses a wind turbine to gen-
12 erate electricity for use in connection with a dwelling
13 unit located in the United States and used as a resi-
14 dence by the taxpayer.”.

15 (B) NO DOUBLE BENEFIT.—Section
16 45(d)(1) (relating to wind facility) is amended
17 by adding at the end the following new sen-
18 tence: “Such term shall not include any facility
19 with respect to which any qualified small wind
20 energy property expenditure (as defined in sub-
21 section (d)(4) of section 25D) is taken into ac-
22 count in determining the credit under such sec-
23 tion.”.

24 (4) MAXIMUM EXPENDITURES IN CASE OF
25 JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating

1 to maximum expenditures) is amended by striking
2 “and” at the end of clause (ii), by striking the pe-
3 riod at the end of clause (iii) and inserting “, and”,
4 and by adding at the end the following new clause:

5 “(iv) \$1,667 in the case of each half
6 kilowatt of capacity (not to exceed
7 \$13,333) of wind turbines for which quali-
8 fied small wind energy property expendi-
9 tures are made.”.

10 (d) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
11 IMUM TAX.—

12 (1) IN GENERAL.—Subsection (c) of section
13 25D is amended to read as follows:

14 “(c) LIMITATION BASED ON AMOUNT OF TAX;
15 CARRYFORWARD OF UNUSED CREDIT.—

16 “(1) LIMITATION BASED ON AMOUNT OF
17 TAX.—In the case of a taxable year to which section
18 26(a)(2) does not apply, the credit allowed under
19 subsection (a) for the taxable year shall not exceed
20 the excess of—

21 “(A) the sum of the regular tax liability
22 (as defined in section 26(b)) plus the tax im-
23 posed by section 55, over

1 “(B) the sum of the credits allowable
2 under this subpart (other than this section) and
3 section 27 for the taxable year.

4 “(2) CARRYFORWARD OF UNUSED CREDIT.—

5 “(A) RULE FOR YEARS IN WHICH ALL
6 PERSONAL CREDITS ALLOWED AGAINST REG-
7 ULAR AND ALTERNATIVE MINIMUM TAX.—In
8 the case of a taxable year to which section
9 26(a)(2) applies, if the credit allowable under
10 subsection (a) exceeds the limitation imposed by
11 section 26(a)(2) for such taxable year reduced
12 by the sum of the credits allowable under this
13 subpart (other than this section), such excess
14 shall be carried to the succeeding taxable year
15 and added to the credit allowable under sub-
16 section (a) for such succeeding taxable year.

17 “(B) RULE FOR OTHER YEARS.—In the
18 case of a taxable year to which section 26(a)(2)
19 does not apply, if the credit allowable under
20 subsection (a) exceeds the limitation imposed by
21 paragraph (1) for such taxable year, such ex-
22 cess shall be carried to the succeeding taxable
23 year and added to the credit allowable under
24 subsection (a) for such succeeding taxable
25 year.”.

1 (2) CONFORMING AMENDMENTS.—

2 (A) Section 23(b)(4)(B) is amended by in-
3 serting “and section 25D” after “this section”.

4 (B) Section 24(b)(3)(B) is amended by
5 striking “and 25B” and inserting “, 25B, and
6 25D”.

7 (C) Section 25B(g)(2) is amended by strik-
8 ing “section 23” and inserting “sections 23 and
9 25D”.

10 (D) Section 26(a)(1) is amended by strik-
11 ing “and 25B” and inserting “25B, and 25D”.

12 (e) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as otherwise pro-
14 vided in this subsection, the amendments made by
15 this section shall apply to expenditures after Decem-
16 ber 31, 2007.

17 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
18 IMUM TAX.—

19 (A) IN GENERAL.—The amendments made
20 by subsection (d) shall apply to taxable years
21 beginning after the date of the enactment of
22 this Act.

23 (B) APPLICATION OF EGTRRA SUNSET.—
24 The amendments made by subparagraphs (A)
25 and (B) of subsection (d)(2) shall be subject to

1 title IX of the Economic Growth and Tax Relief
2 Reconciliation Act of 2001 in the same manner
3 as the provisions of such Act to which such
4 amendments relate.

5 **SEC. 1504. EXTENSION AND MODIFICATION OF SPECIAL**
6 **RULE TO IMPLEMENT FERC AND STATE**
7 **ELECTRIC RESTRUCTURING POLICY.**

8 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-
9 TIES.—

10 (1) IN GENERAL.—Paragraph (3) of section
11 451(i) (relating to special rule for sales or disposi-
12 tions to implement Federal Energy Regulatory Com-
13 mission or State electric restructuring policy) is
14 amended by inserting “(before January 1, 2010, in
15 the case of a qualified electric utility)” after “Janu-
16 ary 1, 2008”.

17 (2) QUALIFIED ELECTRIC UTILITY.—Subsection
18 (i) of section 451 is amended by redesignating para-
19 graphs (6) through (10) as paragraphs (7) through
20 (11), respectively, and by inserting after paragraph
21 (5) the following new paragraph:

22 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-
23 poses of this subsection, the term ‘qualified electric
24 utility’ means a person that, as of the date of the

1 qualifying electric transmission transaction, is
2 vertically integrated, in that it is both—

3 “(A) a transmitting utility (as defined in
4 section 3(23) of the Federal Power Act (16
5 U.S.C. 796(23)) with respect to the trans-
6 mission facilities to which the election under
7 this subsection applies, and

8 “(B) an electric utility (as defined in sec-
9 tion 3(22) of the Federal Power Act (16 U.S.C.
10 796(22)).”.

11 (b) EXTENSION OF PERIOD FOR TRANSFER OF
12 OPERATIONAL CONTROL AUTHORIZED BY FERC.—
13 Clause (ii) of section 451(i)(4)(B) is amended by striking
14 “December 31, 2007” and inserting “the date which is
15 4 years after the close of the taxable year in which the
16 transaction occurs”.

17 (c) PROPERTY LOCATED OUTSIDE THE UNITED
18 STATES NOT TREATED AS EXEMPT UTILITY PROP-
19 ERTY.—Paragraph (5) of section 451(i) is amended by
20 adding at the end the following new subparagraph:

21 “(C) EXCEPTION FOR PROPERTY LOCATED
22 OUTSIDE THE UNITED STATES.—The term ‘ex-
23 empt utility property’ shall not include any
24 property which is located outside the United
25 States.”.

1 (d) EFFECTIVE DATES.—

2 (1) EXTENSION.—The amendments made by
3 subsection (a) shall apply to transactions after De-
4 cember 31, 2007.

5 (2) TRANSFERS OF OPERATIONAL CONTROL.—

6 The amendment made by subsection (b) shall take
7 effect as if included in section 909 of the American
8 Jobs Creation Act of 2004.

9 (3) EXCEPTION FOR PROPERTY LOCATED OUT-
10 SIDE THE UNITED STATES.—The amendment made
11 by subsection (c) shall apply to transactions after
12 the date of the enactment of this Act.

13 **SEC. 1505. NEW CLEAN RENEWABLE ENERGY BONDS.**

14 (a) IN GENERAL.—Part IV of subchapter A of chap-
15 ter 1 (relating to credits against tax) is amended by add-
16 ing at the end the following new subpart:

17 **“Subpart I—Qualified Tax Credit Bonds**

“Sec. 54A. Credit to holders of qualified tax credit bonds.

“Sec. 54B. New clean renewable energy bonds.

18 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CRED-**
19 **IT BONDS.**

20 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
21 a qualified tax credit bond on one or more credit allowance
22 dates of the bond during any taxable year, there shall be
23 allowed as a credit against the tax imposed by this chapter
24 for the taxable year an amount equal to the sum of the

1 credits determined under subsection (b) with respect to
2 such dates.

3 “(b) AMOUNT OF CREDIT.—

4 “(1) IN GENERAL.—The amount of the credit
5 determined under this subsection with respect to any
6 credit allowance date for a qualified tax credit bond
7 is 25 percent of the annual credit determined with
8 respect to such bond.

9 “(2) ANNUAL CREDIT.—The annual credit de-
10 termined with respect to any qualified tax credit
11 bond is the product of—

12 “(A) the applicable credit rate, multiplied
13 by

14 “(B) the outstanding face amount of the
15 bond.

16 “(3) APPLICABLE CREDIT RATE.—For purposes
17 of paragraph (2), the applicable credit rate is 70
18 percent of the rate which the Secretary estimates
19 will permit the issuance of qualified tax credit bonds
20 with a specified maturity or redemption date without
21 discount and without interest cost to the qualified
22 issuer. The applicable credit rate with respect to any
23 qualified tax credit bond shall be determined as of
24 the first day on which there is a binding, written
25 contract for the sale or exchange of the bond.

1 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
2 DEMPTION.—In the case of a bond which is issued
3 during the 3-month period ending on a credit allow-
4 ance date, the amount of the credit determined
5 under this subsection with respect to such credit al-
6 lowance date shall be a ratable portion of the credit
7 otherwise determined based on the portion of the 3-
8 month period during which the bond is outstanding.
9 A similar rule shall apply when the bond is redeemed
10 or matures.

11 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

12 “(1) IN GENERAL.—The credit allowed under
13 subsection (a) for any taxable year shall not exceed
14 the excess of—

15 “(A) the sum of the regular tax liability
16 (as defined in section 26(b)) plus the tax im-
17 posed by section 55, over

18 “(B) the sum of the credits allowable
19 under this part (other than subpart C and this
20 subpart).

21 “(2) CARRYOVER OF UNUSED CREDIT.—If the
22 credit allowable under subsection (a) exceeds the
23 limitation imposed by paragraph (1) for such taxable
24 year, such excess shall be carried to the succeeding
25 taxable year and added to the credit allowable under

1 subsection (a) for such taxable year (determined be-
2 fore the application of paragraph (1) for such suc-
3 ceeding taxable year).

4 “(d) QUALIFIED TAX CREDIT BOND.—For purposes
5 of this section—

6 “(1) QUALIFIED TAX CREDIT BOND.—The term
7 ‘qualified tax credit bond’ means a new clean renew-
8 able energy bond which is part of an issue that
9 meets the requirements of paragraphs (2), (3), (4),
10 (5), and (6).

11 “(2) SPECIAL RULES RELATING TO EXPENDI-
12 TURES.—

13 “(A) IN GENERAL.—An issue shall be
14 treated as meeting the requirements of this
15 paragraph if, as of the date of issuance, the
16 issuer reasonably expects—

17 “(i) 100 percent or more of the avail-
18 able project proceeds to be spent for 1 or
19 more qualified purposes within the 3-year
20 period beginning on such date of issuance,
21 and

22 “(ii) a binding commitment with a
23 third party to spend at least 10 percent of
24 such available project proceeds will be in-

1 curred within the 6-month period begin-
2 ning on such date of issuance.

3 “(B) FAILURE TO SPEND REQUIRED
4 AMOUNT OF BOND PROCEEDS WITHIN 3
5 YEARS.—

6 “(i) IN GENERAL.—To the extent that
7 less than 100 percent of the available
8 project proceeds of the issue are expended
9 by the close of the expenditure period for
10 1 or more qualified purposes, the issuer
11 shall redeem all of the nonqualified bonds
12 within 90 days after the end of such pe-
13 riod. For purposes of this paragraph, the
14 amount of the nonqualified bonds required
15 to be redeemed shall be determined in the
16 same manner as under section 142.

17 “(ii) EXPENDITURE PERIOD.—For
18 purposes of this subpart, the term ‘expend-
19 iture period’ means, with respect to any
20 issue, the 3-year period beginning on the
21 date of issuance. Such term shall include
22 any extension of such period under clause
23 (iii).

24 “(iii) EXTENSION OF PERIOD.—Upon
25 submission of a request prior to the expira-

tion of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

“(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term ‘qualified purpose’ means a purpose specified in section 54B(a)(1).

“(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

“(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

1 “(ii) not later than 60 days after pay-
2 ment of the original expenditure, the issuer
3 adopts an official intent to reimburse the
4 original expenditure with such proceeds,
5 and

6 “(iii) the reimbursement is made not
7 later than 18 months after the date the
8 original expenditure is paid.

9 “(3) REPORTING.—An issue shall be treated as
10 meeting the requirements of this paragraph if the
11 issuer of qualified tax credit bonds submits reports
12 similar to the reports required under section 149(e).

13 “(4) SPECIAL RULES RELATING TO ARBI-
14 TRAGE.—

15 “(A) IN GENERAL.—An issue shall be
16 treated as meeting the requirements of this
17 paragraph if the issuer satisfies the require-
18 ments of section 148 with respect to the pro-
19 ceeds of the issue.

20 “(B) SPECIAL RULE FOR INVESTMENTS
21 DURING EXPENDITURE PERIOD.—An issue shall
22 not be treated as failing to meet the require-
23 ments of subparagraph (A) by reason of any in-
24 vestment of available project proceeds during
25 the expenditure period.

1 “(C) SPECIAL RULE FOR RESERVE
2 FUNDS.—An issue shall not be treated as fail-
3 ing to meet the requirements of subparagraph
4 (A) by reason of any fund which is expected to
5 be used to repay such issue if—

6 “(i) such fund is funded at a rate not
7 more rapid than equal annual installments,

8 “(ii) such fund is funded in a manner
9 reasonably expected to result in an amount
10 not greater than an amount necessary to
11 repay the issue, and

12 “(iii) the yield on such fund is not
13 greater than the discount rate determined
14 under paragraph (5)(B) with respect to the
15 issue.

16 “(5) MATURITY LIMITATION.—

17 “(A) IN GENERAL.—An issue shall be
18 treated as meeting the requirements of this
19 paragraph if the maturity of any bond which is
20 part of such issue does not exceed the max-
21 imum term determined by the Secretary under
22 subparagraph (B).

23 “(B) MAXIMUM TERM.—During each cal-
24 endar month, the Secretary shall determine the
25 maximum term permitted under this paragraph

1 for bonds issued during the following calendar
2 month. Such maximum term shall be the term
3 which the Secretary estimates will result in the
4 present value of the obligation to repay the
5 principal on the bond being equal to 50 percent
6 of the face amount of such bond. Such present
7 value shall be determined using as a discount
8 rate the average annual interest rate of tax-ex-
9 empt obligations having a term of 10 years or
10 more which are issued during the month. If the
11 term as so determined is not a multiple of a
12 whole year, such term shall be rounded to the
13 next highest whole year.

14 “(6) PROHIBITION ON FINANCIAL CONFLICTS
15 OF INTEREST.—An issue shall be treated as meeting
16 the requirements of this paragraph if the issuer cer-
17 tifies that—

18 “(A) applicable State and local law re-
19 quirements governing conflicts of interest are
20 satisfied with respect to such issue, and

21 “(B) if the Secretary prescribes additional
22 conflicts of interest rules governing the appro-
23 priate Members of Congress, Federal, State,
24 and local officials, and their spouses, such addi-

1 tional rules are satisfied with respect to such
2 issue.

3 “(e) OTHER DEFINITIONS.—For purposes of this
4 subchapter—

5 “(1) CREDIT ALLOWANCE DATE.—The term
6 ‘credit allowance date’ means—

7 “(A) March 15,

8 “(B) June 15,

9 “(C) September 15, and

10 “(D) December 15.

11 Such term includes the last day on which the bond
12 is outstanding.

13 “(2) BOND.—The term ‘bond’ includes any ob-
14 ligation.

15 “(3) STATE.—The term ‘State’ includes the
16 District of Columbia and any possession of the
17 United States.

18 “(4) AVAILABLE PROJECT PROCEEDS.—The
19 term ‘available project proceeds’ means—

20 “(A) the excess of—

21 “(i) the proceeds from the sale of an
22 issue, over

23 “(ii) the issuance costs financed by
24 the issue (to the extent that such costs do

1 not exceed 2 percent of such proceeds),
2 and

3 “(B) the proceeds from any investment of
4 the excess described in subparagraph (A).

5 “(f) CREDIT TREATED AS INTEREST.—For purposes
6 of this subtitle, the credit determined under subsection (a)
7 shall be treated as interest which is includible in gross in-
8 come.

9 “(g) S CORPORATIONS AND PARTNERSHIPS.—In the
10 case of a tax credit bond held by an S corporation or part-
11 nership, the allocation of the credit allowed by this section
12 to the shareholders of such corporation or partners of such
13 partnership shall be treated as a distribution.

14 “(h) BONDS HELD BY REGULATED INVESTMENT
15 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—
16 If any qualified tax credit bond is held by a regulated in-
17 vestment company or a real estate investment trust, the
18 credit determined under subsection (a) shall be allowed to
19 shareholders of such company or beneficiaries of such
20 trust (and any gross income included under subsection (f)
21 with respect to such credit shall be treated as distributed
22 to such shareholders or beneficiaries) under procedures
23 prescribed by the Secretary.

24 “(i) CREDITS MAY BE STRIPPED.—Under regula-
25 tions prescribed by the Secretary—

1 “(1) IN GENERAL.—There may be a separation
2 (including at issuance) of the ownership of a quali-
3 fied tax credit bond and the entitlement to the credit
4 under this section with respect to such bond. In case
5 of any such separation, the credit under this section
6 shall be allowed to the person who on the credit al-
7 lowance date holds the instrument evidencing the en-
8 titlement to the credit and not to the holder of the
9 bond.

10 “(2) CERTAIN RULES TO APPLY.—In the case
11 of a separation described in paragraph (1), the rules
12 of section 1286 shall apply to the qualified tax credit
13 bond as if it were a stripped bond and to the credit
14 under this section as if it were a stripped coupon.

15 **“SEC. 54B. NEW CLEAN RENEWABLE ENERGY BONDS.**

16 “(a) NEW CLEAN RENEWABLE ENERGY BOND.—For
17 purposes of this subpart, the term ‘new clean renewable
18 energy bond’ means any bond issued as part of an issue
19 if—

20 “(1) 100 percent of the available project pro-
21 ceeds of such issue are to be used for capital expend-
22 itures incurred by public power providers, govern-
23 mental bodies, or cooperative electric companies for
24 one or more qualified renewable energy facilities,

1 “(2) the bond is issued by a qualified issuer,
2 and

3 “(3) the issuer designates such bond for pur-
4 poses of this section.

5 “(b) LIMITATION ON AMOUNT OF BONDS DES-
6 IGNATED.—

7 “(1) IN GENERAL.—The maximum aggregate
8 face amount of bonds which may be designated
9 under subsection (a) by any issuer shall not exceed
10 the limitation amount allocated under this sub-
11 section to such issuer.

12 “(2) NATIONAL LIMITATION ON AMOUNT OF
13 BONDS DESIGNATED.—There is a national new clean
14 renewable energy bond limitation of \$2,000,000,000
15 which shall be allocated by the Secretary as provided
16 in paragraph (3), except that—

17 “(A) not more than 33 $\frac{1}{3}$ percent thereof
18 may be allocated to qualified projects of public
19 power providers,

20 “(B) not more than 33 $\frac{1}{3}$ percent thereof
21 may be allocated to qualified projects of govern-
22 mental bodies, and

23 “(C) not more than 33 $\frac{1}{3}$ percent thereof
24 may be allocated to qualified projects of cooper-
25 ative electric companies.

1 “(3) METHOD OF ALLOCATION.—

2 “(A) ALLOCATION AMONG PUBLIC POWER
3 PROVIDERS.—After the Secretary determines
4 the qualified projects of public power providers
5 which are appropriate for receiving an alloca-
6 tion of the national new clean renewable energy
7 bond limitation, the Secretary shall, to the max-
8 imum extent practicable, make allocations
9 among such projects in such manner that the
10 amount allocated to each such project bears the
11 same ratio to the cost of such project as the
12 limitation under paragraph (2)(A) bears to the
13 cost of all such projects.

14 “(B) ALLOCATION AMONG GOVERNMENTAL
15 BODIES AND COOPERATIVE ELECTRIC COMPA-
16 NIES.—The Secretary shall make allocations of
17 the amount of the national new clean renewable
18 energy bond limitation described in paragraphs
19 (2)(B) and (2)(C) among qualified projects of
20 governmental bodies and cooperative electric
21 companies, respectively, in such manner as the
22 Secretary determines appropriate.

23 “(c) DEFINITIONS.—For purposes of this section—

24 “(1) QUALIFIED RENEWABLE ENERGY FACIL-
25 ITY.—The term ‘qualified renewable energy facility’

1 means a qualified facility (as determined under sec-
2 tion 45(d) without regard to paragraphs (8) and
3 (10) thereof and to any placed in service date)
4 owned by a public power provider, a governmental
5 body, or a cooperative electric company.

6 “(2) PUBLIC POWER PROVIDER.—The term
7 ‘public power provider’ means a State utility with a
8 service obligation, as such terms are defined in sec-
9 tion 217 of the Federal Power Act (as in effect on
10 the date of the enactment of this paragraph).

11 “(3) GOVERNMENTAL BODY.—The term ‘gov-
12 ernmental body’ means any State or Indian tribal
13 government, or any political subdivision thereof.

14 “(4) COOPERATIVE ELECTRIC COMPANY.—The
15 term ‘cooperative electric company’ means a mutual
16 or cooperative electric company described in section
17 501(c)(12) or section 1381(a)(2)(C).

18 “(5) CLEAN RENEWABLE ENERGY BOND LEND-
19 ER.—The term ‘clean renewable energy bond lender’
20 means a lender which is a cooperative which is
21 owned by, or has outstanding loans to, 100 or more
22 cooperative electric companies and is in existence on
23 February 1, 2002, and shall include any affiliated
24 entity which is controlled by such lender.

1 “(6) QUALIFIED ISSUER.—The term ‘qualified
2 issuer’ means a public power provider, a govern-
3 mental body, a cooperative electric company, a clean
4 renewable energy bond lender, or a not-for-profit
5 electric utility which has received a loan or loan
6 guarantee under the Rural Electrification Act.”.

7 (b) REPORTING.—Subsection (d) of section 6049 (re-
8 lating to returns regarding payments of interest) is
9 amended by adding at the end the following new para-
10 graph:

11 “(9) REPORTING OF CREDIT ON QUALIFIED
12 TAX CREDIT BONDS.—

13 “(A) IN GENERAL.—For purposes of sub-
14 section (a), the term ‘interest’ includes amounts
15 includible in gross income under section 54A
16 and such amounts shall be treated as paid on
17 the credit allowance date (as defined in section
18 54A(e)(1)).

19 “(B) REPORTING TO CORPORATIONS,
20 ETC.—Except as otherwise provided in regula-
21 tions, in the case of any interest described in
22 subparagraph (A) of this paragraph, subsection
23 (b)(4) of this section shall be applied without
24 regard to subparagraphs (A), (H), (I), (J), (K),
25 and (L)(i).

1 “(C) REGULATORY AUTHORITY.—The Sec-
2 retary may prescribe such regulations as are
3 necessary or appropriate to carry out the pur-
4 poses of this paragraph, including regulations
5 which require more frequent or more detailed
6 reporting.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Sections 54(c)(2) and 1400N(l)(3)(B) are
9 each amended by striking “subpart C” and inserting
10 “subparts C and I”.

11 (2) Section 1397E(c)(2) is amended by striking
12 “subpart H” and inserting “subparts H and I”.

13 (3) Section 6401(b)(1) is amended by striking
14 “and H” and inserting “H, and I”.

15 (4) The heading of subpart H of part IV of
16 subchapter A of chapter 1 is amended by striking
17 “**Certain Bonds**” and inserting “**Clean Re-**
18 **newable Energy Bonds**”.

19 (5) The table of subparts for part IV of sub-
20 chapter A of chapter 1 is amended by striking the
21 item relating to subpart H and inserting the fol-
22 lowing new items:

“SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE
ENERGY BONDS.

“SUBPART I. QUALIFIED TAX CREDIT BONDS.”.

1 (d) EFFECTIVE DATES.—The amendments made by
2 this section shall apply to obligations issued after the date
3 of the enactment of this Act.

4 **PART II—PROVISIONS RELATING TO CARBON**
5 **MITIGATION AND COAL**

6 **SEC. 1506. EXPANSION AND MODIFICATION OF ADVANCED**
7 **COAL PROJECT INVESTMENT CREDIT.**

8 (a) MODIFICATION OF CREDIT AMOUNT.—Section
9 48A(a) (relating to qualifying advanced coal project cred-
10 it) is amended by striking “and” at the end of paragraph
11 (1), by striking the period at the end of paragraph (2)
12 and inserting “, and”, and by adding at the end the fol-
13 lowing the paragraph:

14 “(3) 30 percent of the qualified investment for
15 such taxable year in the case of projects described
16 in clauses (iii) or (iv) of subsection (d)(3)(B).”.

17 (b) EXPANSION OF AGGREGATE CREDITS.—Section
18 48A(d)(3)(A) (relating to aggregate credits) is amended
19 by striking “\$1,300,000,000” and inserting
20 “\$2,800,000,000”.

21 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

22 (1) IN GENERAL.—Subparagraph (B) of section
23 48A(d)(3) (relating to aggregate credits) is amended
24 to read as follows:

1 “(B) PARTICULAR PROJECTS.—Of the dol-
2 lar amount in subparagraph (A), the Secretary
3 is authorized to certify—

4 “(i) \$800,000,000 for integrated gas-
5 ification combined cycle projects the appli-
6 cation for which is submitted during the
7 period described in paragraph (2)(A)(i),

8 “(ii) \$500,000,000 for projects which
9 use other advanced coal-based generation
10 technologies the application for which is
11 submitted during the period described in
12 paragraph (2)(A)(i),

13 “(iii) \$1,000,000,000 for integrated
14 gasification combined cycle projects the ap-
15 plication for which is submitted during the
16 period described in paragraph (2)(A)(ii),
17 and

18 “(iv) \$500,000,000 for other ad-
19 vanced coal-based generation technology
20 projects the application for which is sub-
21 mitted during the period described in para-
22 graph (2)(A)(ii).”.

23 (2) APPLICATION PERIOD FOR ADDITIONAL
24 PROJECTS.—Subparagraph (A) of section 48A(d)(2)

1 (relating to certification) is amended to read as fol-
2 lows:

3 “(A) APPLICATION PERIOD.—Each appli-
4 cant for certification under this paragraph shall
5 submit an application meeting the requirements
6 of subparagraph (B). An applicant may only
7 submit an application—

8 “(i) for an allocation from the dollar
9 amount specified in clause (i) or (ii) of
10 paragraph (3)(A) during the 3-year period
11 beginning on the date the Secretary estab-
12 lishes the program under paragraph (1),
13 and

14 “(ii) for an allocation from the dollar
15 amount specified in clause (iii) or (iv) of
16 paragraph (3)(A) during the 3-year period
17 beginning at the earlier of the termination
18 of the period described in clause (i) or the
19 date prescribed by the Secretary.”.

20 (3) CAPTURE AND SEQUESTRATION OF CARBON
21 DIOXIDE EMISSIONS REQUIREMENT.—

22 (A) IN GENERAL.—Section 48A(e)(1) (re-
23 lating to requirements) is amended by striking
24 “and” at the end of subparagraph (E), by
25 striking the period at the end of subparagraph

1 (F) and inserting “; and”, and by adding at the
2 end the following new subparagraph:

3 “(G) in the case of any project the applica-
4 tion for which is submitted during the period
5 described in subsection (d)(2)(A)(ii), the project
6 includes equipment which separates and seques-
7 ters at least 65 percent (70 percent in the case
8 of an application for reallocated credits under
9 subsection (d)(4)) of such project’s total carbon
10 dioxide emissions.”.

11 (B) HIGHEST PRIORITY FOR PROJECTS
12 WHICH SEQUESTER CARBON DIOXIDE EMIS-
13 SIONS.—Section 48A(e)(3) is amended by strik-
14 ing “and” at the end of subparagraph (A)(iii),
15 by striking the period at the end of subpara-
16 graph (B)(3) and inserting “, and”, and by
17 adding at the end the following new subpara-
18 graph:

19 “(C) give highest priority to projects with
20 the greatest separation and sequestration per-
21 centage of total carbon dioxide emissions.”.

22 (C) RECAPTURE OF CREDIT FOR FAILURE
23 TO SEQUESTER.—Section 48A (relating to
24 qualifying advanced coal project credit) is

1 amended by adding at the end the following
2 new subsection:

3 “(h) RECAPTURE OF CREDIT FOR FAILURE TO SE-
4 QUESTER.—The Secretary shall provide for recapturing
5 the benefit of any credit allowable under subsection (a)
6 with respect to any project which fails to attain or main-
7 tain the separation and sequestration requirements of sub-
8 section (e)(1)(G).”.

9 (4) ADDITIONAL PRIORITY FOR RESEARCH
10 PARTNERSHIPS.—Section 48A(e)(3)(B), as amended
11 by paragraph (3)(B), is amended—

12 (A) by striking “and” at the end of clause

13 (ii),

14 (B) by redesignating clause (iii) as clause

15 (iv), and

16 (C) by inserting after clause (ii) the fol-
17 lowing new clause:

18 “(iii) applicant participants who have
19 a research partnership with an eligible edu-
20 cational institution (as defined in section
21 529(e)(5)), and”.

22 (5) CLERICAL AMENDMENT.—Section 48A(e)(3)
23 is amended by striking “INTEGRATED GASIFICATION
24 COMBINED CYCLE” in the heading and inserting
25 “CERTAIN”.

1 (d) COMPETITIVE CERTIFICATION AWARDS MODI-
2 FICATION AUTHORITY.—Section 48A (relating to quali-
3 fying advanced coal project credit), as amended by sub-
4 section (c)(3), is amended by adding at the end the fol-
5 lowing new subsection:

6 “(i) COMPETITIVE CERTIFICATION AWARDS MODI-
7 FICATION AUTHORITY.—In implementing this section or
8 section 48B, the Secretary is directed to modify the terms
9 of any competitive certification award and any associated
10 closing agreement where such modification—

11 “(1) is consistent with the objectives of such
12 section,

13 “(2) is requested by the recipient of the com-
14 petitive certification award, and

15 “(3) involves moving the project site to improve
16 the potential to capture and sequester carbon dioxide
17 emissions, reduce costs of transporting feedstock,
18 and serve a broader customer base,

19 unless the Secretary determines that the dollar amount
20 of tax credits available to the taxpayer under such section
21 would increase as a result of the modification or such
22 modification would result in such project not being origi-
23 nally certified. In considering any such modification, the
24 Secretary shall consult with other relevant Federal agen-
25 cies, including the Department of Energy.”.

1 (e) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this section shall apply to credits the application for
5 which is submitted during the period described in
6 section 48A(d)(2)(A)(ii) of the Internal Revenue
7 Code of 1986 and which are allocated or reallocated
8 after the date of the enactment of this Act.

9 (2) COMPETITIVE CERTIFICATION AWARDS
10 MODIFICATION AUTHORITY.—The amendment made
11 by subsection (d) shall take effect on the date of the
12 enactment of this Act and is applicable to all com-
13 petitive certification awards entered into under sec-
14 tion 48A or 48B of the Internal Revenue Code of
15 1986, whether such awards were issued before, on,
16 or after such date of enactment.

17 (3) TECHNICAL AMENDMENT.—The amendment
18 made by subsection (c)(5) shall take effect as if in-
19 cluded in the amendment made by section 1307(b)
20 of the Energy Tax Incentives Act of 2005.

21 **SEC. 1507. EXPANSION AND MODIFICATION OF COAL GAS-**
22 **IFICATION INVESTMENT CREDIT.**

23 (a) CREDIT RATE.—Section 48B(a) (relating to
24 qualifying gasification project credit) is amended by in-

1 serting “(30 percent in the case of credits allocated under
2 subsection (d)(1)(B))” after “20 percent”.

3 (b) EXPANSION OF AGGREGATE CREDITS.—Section
4 48B(d)(1) (relating to qualifying gasification project pro-
5 gram) is amended by striking “shall not exceed
6 \$350,000,000” and all that follows and inserting “shall
7 not exceed—

8 “(A) \$350,000,000, plus

9 “(B) \$500,000,000 for qualifying gasifi-
10 cation projects that include equipment which
11 separates and sequesters at least 75 percent of
12 such a project’s total carbon dioxide emissions,
13 under rules similar to the rules of section
14 48A(d)(4).”.

15 (c) RECAPTURE OF CREDIT FOR FAILURE TO SE-
16 QUESTER.—Section 48B (relating to qualifying gasifi-
17 cation project credit) is amended by adding at the end the
18 following new subsection:

19 “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-
20 QUESTER.—The Secretary shall provide for recapturing
21 the benefit of any credit allowable under subsection (a)
22 with respect to any project which fails to attain or main-
23 tain the separation and sequestration requirements for
24 such project under subsection (d)(1).”.

1 (d) SELECTION PRIORITIES.—Section 48B(d) (relat-
2 ing to qualifying gasification project program) is amended
3 by adding at the end the following new paragraph:

4 “(4) SELECTION PRIORITIES.—In determining
5 which qualifying gasification projects to certify
6 under this section, the Secretary shall—

7 “(A) give highest priority to projects with
8 the greatest separation and sequestration per-
9 centage of total carbon dioxide emissions, and

10 “(B) give high priority to applicant partici-
11 pants who have a research partnership with an
12 eligible educational institution (as defined in
13 section 529(e)(5)).”.

14 (e) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to credits described in section
16 48B(d)(1)(B) of the Internal Revenue Code of 1986 which
17 are allocated or reallocated after the date of the enactment
18 of this Act.

19 **SEC. 1508. SEVEN-YEAR APPLICABLE RECOVERY PERIOD**
20 **FOR DEPRECIATION OF QUALIFIED CARBON**
21 **DIOXIDE PIPELINE PROPERTY.**

22 (a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-
23 year property) is amended by striking “and” at the end
24 of clause (iv), by redesignating clause (v) as clause (vi),
25 and by inserting after clause (iv) the following new clause:

1 “(v) any qualified carbon dioxide pipe-
2 line property—

3 “(I) the original use of which
4 commences with the taxpayer after
5 the date of the enactment of this
6 clause,

7 “(II) the original purpose of
8 which is to transport carbon dioxide,
9 and

10 “(III) which is placed in service
11 before January 1, 2011, and”.

12 (b) DEFINITION OF QUALIFIED CARBON DIOXIDE
13 PIPELINE PROPERTY.—Section 168(e) (relating to classi-
14 fication of property) is amended by inserting at the end
15 the following new paragraph:

16 “(8) QUALIFIED CARBON DIOXIDE PIPELINE
17 PROPERTY.—

18 “(A) IN GENERAL.—The term ‘qualified
19 carbon dioxide pipeline property’ means prop-
20 erty which is used in the United States solely
21 to transmit qualified carbon dioxide from the
22 point of capture to a secure geological storage
23 or the point at which such qualified carbon di-
24 oxide is used as a tertiary injectant.

1 “(B) DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this paragraph—

3 “(i) QUALIFIED CARBON DIOXIDE.—

4 The term ‘qualified carbon dioxide’ means
5 carbon dioxide captured from an industrial
6 source which—

7 “(I) would otherwise be released
8 into the atmosphere as industrial
9 emission of greenhouse gas, and

10 “(II) is measured at the source
11 of capture and verified at the point of
12 disposal or injection.

13 “(ii) SECURE GEOLOGICAL STOR-
14 AGE.—The Secretary, in consultation with
15 the Secretary of the Interior, the Secretary
16 of Energy, and the Administrator of the
17 Environmental Protection Agency, shall es-
18 tablish regulations for determining ade-
19 quate security measures for the geological
20 storage of carbon dioxide under subpara-
21 graph (A) such that the carbon dioxide
22 does not escape into the atmosphere. Such
23 term shall include storage at deep saline
24 formations and unminable coal seams

1 under such conditions as the Secretary
2 may determine under such regulations.

3 “(iii) TERTIARY INJECTANT.—The
4 term ‘tertiary injectant’ has the same
5 meaning as when used within section
6 193(b)(1).”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property placed in service after
9 the date of the enactment of this Act.

10 **SEC. 1509. SPECIAL RULES FOR REFUND OF THE COAL EX-**
11 **CISE TAX TO CERTAIN COAL PRODUCERS**
12 **AND EXPORTERS.**

13 (a) REFUND.—

14 (1) COAL PRODUCERS.—

15 (A) IN GENERAL.—Notwithstanding sub-
16 sections (a)(1) and (c) of section 6416 and sec-
17 tion 6511 of the Internal Revenue Code of
18 1986, if—

19 (i) a coal producer establishes that
20 such coal producer, or a party related to
21 such coal producer, exported coal produced
22 by such coal producer to a foreign country
23 or shipped coal produced by such coal pro-
24 ducer to a possession of the United States,
25 or caused such coal to be exported or

1 shipped, the export or shipment of which
2 was other than through an exporter who
3 meets the requirements of paragraph (2),

4 (ii) such coal producer filed a tax re-
5 turn on or after October 1, 1990, and on
6 or before the date of the enactment of this
7 Act, and

8 (iii) such coal producer files a claim
9 for refund with the Secretary not later
10 than the close of the 30-day period begin-
11 ning on the date of the enactment of this
12 Act,

13 then the Secretary shall pay to such coal pro-
14 ducer an amount equal to the tax paid under
15 section 4121 of such Code on such coal ex-
16 ported or shipped by the coal producer or a
17 party related to such coal producer, or caused
18 by the coal producer or a party related to such
19 coal producer to be exported or shipped.

20 (B) SPECIAL RULES FOR CERTAIN TAX-
21 PAYERS.—For purposes of this section—

22 (i) IN GENERAL.—If a coal producer
23 or a party related to a coal producer has
24 received a judgment described in clause
25 (iii) and has provided evidence as provided

1 under clause (iv), such coal producer shall
2 be deemed to have established the export
3 of coal to a foreign country or shipment of
4 coal to a possession of the United States
5 under subparagraph (A)(i).

6 (ii) AMOUNT OF PAYMENT.—If a tax-
7 payer described in clause (i) is entitled to
8 a payment under subparagraph (A), the
9 amount of such payment shall be reduced
10 by any amount paid pursuant to the judg-
11 ment described in clause (iii).

12 (iii) JUDGMENT DESCRIBED.—A judg-
13 ment is described in this subparagraph if
14 such judgment—

15 (I) is made by a court of com-
16 petent jurisdiction within the United
17 States,

18 (II) relates to the constitu-
19 tionality of any tax paid on exported
20 coal under section 4121 of the Inter-
21 nal Revenue Code of 1986, and

22 (III) is in favor of the coal pro-
23 ducer or the party related to the coal
24 producer.

1 (iv) ESTABLISHMENT OF EXPORT.—

2 For purposes of this section, the Secretary
3 shall accept as proof of export or shipment
4 from a coal producer, at the discretion of
5 the coal producer, either—

6 (I) a copy or the original of a
7 judgment described in clause (iii) re-
8 gardless of whether it is subsequently
9 overturned, which shall be deemed to
10 establish the export of coal covered by
11 the judgment, or

12 (II) a copy or the original of any
13 one of the following: a bill of lading,
14 a commercial invoice, or a shipper's
15 export declaration evidencing that
16 such coal was exported or shipped, or
17 caused to be exported or shipped.

18 (v) RECAPTURE.—In the case any
19 judgment described in clause (iii) is over-
20 turned, the coal producer shall pay to the
21 Secretary the amount of any payment re-
22 ceived under subparagraph (A) unless the
23 coal producer establishes the export of the
24 coal to a foreign country or shipment of
25 coal to a possession of the United States.

1 (2) EXPORTERS.—

2 (A) IN GENERAL.—Notwithstanding sub-
3 sections (a)(1) and (c) of section 6416 and sec-
4 tion 6511 of the Internal Revenue Code of
5 1986, and a judgment described in paragraph
6 (1)(B)(iii) of this subsection, if—

7 (i) an exporter establishes that such
8 exporter exported coal to a foreign country
9 or shipped coal to a possession of the
10 United States, or caused such coal to be so
11 exported or shipped,

12 (ii) such exporter filed a tax return on
13 or after October 1, 1990, and on or before
14 the date of the enactment of this Act, and

15 (iii) such exporter files a claim for re-
16 fund with the Secretary not later than the
17 close of the 30-day period beginning on the
18 date of the enactment of this Act,

19 then the Secretary shall pay to such exporter
20 an amount equal to \$0.825 per ton of such coal
21 exported by the exporter or caused to be ex-
22 ported or shipped, or caused to be exported or
23 shipped, by the exporter.

24 (B) ESTABLISHMENT OF EXPORT.—For
25 purposes of this section, the Secretary shall ac-

1 cept as proof of export or shipment from a coal
2 exporter a copy or the original of any 1 of the
3 following: a copy or the original of any one of
4 1 the following: a bill of lading, a commercial
5 invoice, or a shipper's export declaration evi-
6 dencing that such coal was exported or shipped,
7 or caused to be exported or shipped.

8 (b) LIMITATIONS.—Subsection (a) shall not apply
9 with respect to exported coal if a settlement with the Fed-
10 eral Government has been made with and accepted by, the
11 coal producer, a party related to such coal producer, or
12 the exporter, of such coal, as of the date that the claim
13 is filed under this section with respect to such exported
14 coal. For purposes of this subsection, the term “settlement
15 with the Federal Government” shall not include any settle-
16 ment or stipulation entered into as of the date of the en-
17 actment of this Act, the terms of which contemplate a
18 judgment concerning which any party has reserved the
19 right to file an appeal, or has filed an appeal.

20 (c) SUBSEQUENT REFUND PROHIBITED.—No refund
21 shall be made under this section to the extent that a credit
22 or refund of such tax on such exported or shipped coal
23 has been paid to any person.

24 (d) DEFINITIONS.—For purposes of this section—

1 (1) COAL PRODUCER.—The term “coal pro-
2 ducer” means the person in whom is vested owner-
3 ship of the coal immediately after the coal is severed
4 from the ground, without regard to the existence of
5 any contractual arrangement for the sale or other
6 disposition of the coal or the payment of any royal-
7 ties between the producer and third parties. The
8 term includes any person who extracts coal from
9 coal waste refuse piles or from the silt waste product
10 which results from the wet washing (or similar proc-
11 essing) of coal.

12 (2) EXPORTER.—The term “exporter” means a
13 person, other than a coal producer, who does not
14 have a contract, fee arrangement, or any other
15 agreement with a producer or seller of such coal to
16 export or ship such coal to a third party on behalf
17 of the producer or seller of such coal and—

18 (A) is indicated in the shipper’s export
19 declaration or other documentation as the ex-
20 porter of record, or

21 (B) actually exported such coal to a for-
22 eign country or shipped such coal to a posses-
23 sion of the United States, or caused such coal
24 to be so exported or shipped.

1 (3) RELATED PARTY.—The term “a party re-
2 lated to such coal producer” means a person who—

3 (A) is related to such coal producer
4 through any degree of common management,
5 stock ownership, or voting control,

6 (B) is related (within the meaning of sec-
7 tion 144(a)(3) of such Code) to such coal pro-
8 ducer, or

9 (C) has a contract, fee arrangement, or
10 any other agreement with such coal producer to
11 sell such coal to a third party on behalf of such
12 coal producer.

13 (4) SECRETARY.—The term “Secretary” means
14 the Secretary of Treasury or the Secretary’s des-
15 ignee.

16 (e) TIMING OF REFUND.—With respect to any claim
17 for refund filed pursuant to this section, the Secretary
18 shall determine whether the requirements of this section
19 are met not later than 180 days after such claim is filed.
20 If the Secretary determines that the requirements of this
21 section are met, the claim for refund shall be paid not
22 later than 180 days after the Secretary makes such deter-
23 mination.

24 (f) INTEREST.—Any refund paid pursuant to this
25 section shall be paid by the Secretary with interest from

1 the date of overpayment determined by using the overpay-
2 ment rate and method under section 6621 of such Code.

3 (g) DENIAL OF DOUBLE BENEFIT.—The payment
4 under subsection (a) with respect to any coal shall not ex-
5 ceed—

6 (1) in the case of a payment to a coal producer,
7 the amount of tax paid under section 4121 of the
8 Internal Revenue Code of 1986 with respect to such
9 coal by such coal producer or a party related to such
10 coal producer, and

11 (2) in the case of a payment to an exporter, an
12 amount equal to \$0.825 per ton with respect to such
13 coal exported by the exporter or caused to be ex-
14 ported by the exporter.

15 (h) APPLICATION OF SECTION.—This section applies
16 only to claims on coal exported or shipped on or after Oc-
17 tober 1, 1990, through the date of the enactment of this
18 Act.

19 (i) STANDING NOT CONFERRED.—

20 (1) EXPORTERS.—With respect to exporters,
21 this section shall not confer standing upon an ex-
22 porter to commence, or intervene in, any judicial or
23 administrative proceeding concerning a claim for re-
24 fund by a coal producer of any Federal or State tax,
25 fee, or royalty paid by the coal producer.

1 (2) COAL PRODUCERS.—With respect to coal
2 producers, this section shall not confer standing
3 upon a coal producer to commence, or intervene in,
4 any judicial or administrative proceeding concerning
5 a claim for refund by an exporter of any Federal or
6 State tax, fee, or royalty paid by the producer and
7 alleged to have been passed on to an exporter.

8 **SEC. 1510. EXTENSION OF TEMPORARY INCREASE IN COAL**
9 **EXCISE TAX.**

10 Paragraph (2) of section 4121(e) (relating to tem-
11 porary increase termination date) is amended—

12 (1) by striking “January 1, 2014” in clause (i)
13 and inserting “December 31, 2017”, and

14 (2) by striking “January 1 after 1981” in
15 clause (ii) and inserting “December 31 after 2007”.

16 **SEC. 1511. CARBON AUDIT OF THE TAX CODE.**

17 (a) STUDY.—The Secretary of the Treasury shall
18 enter into an agreement with the National Academy of
19 Sciences to undertake a comprehensive review of the Inter-
20 nal Revenue Code of 1986 to identify the types of and
21 specific tax provisions that have the largest effects on car-
22 bon and other greenhouse gas emissions and to estimate
23 the magnitude of those effects.

24 (b) REPORT.—Not later than 2 years after the date
25 of enactment of this Act, the National Academy of

1 Sciences shall submit to Congress a report containing the
2 results of study authorized under this section.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out this section
5 \$1,500,000 for the period of fiscal years 2008 and 2009.

6 **Subtitle B—Transportation and**
7 **Domestic Fuel Security**

8 **PART I—BIOFUELS**

9 **SEC. 1521. CREDIT FOR PRODUCTION OF CELLULOSIC BIO-**
10 **MASS ALCOHOL.**

11 (a) IN GENERAL.—Subsection (a) of section 40 (re-
12 lating to alcohol used as fuel) is amended by striking
13 “plus” at the end of paragraph (2), by striking the period
14 at the end of paragraph (3) and inserting “, plus”, and
15 by adding at the end the following new paragraph:

16 “(4) the cellulosic alcohol producer credit.”.

17 (b) CELLULOSIC ALCOHOL PRODUCER CREDIT.—

18 (1) IN GENERAL.—Subsection (b) of section 40
19 is amended by redesignating paragraph (5) as para-
20 graph (6) and by inserting after paragraph (4) the
21 following new paragraph:

22 “(5) CELLULOSIC ALCOHOL PRODUCER CRED-
23 IT.—

24 “(A) IN GENERAL.—The cellulosic alcohol
25 producer credit for the taxable year is an

1 amount equal to the applicable amount for each
2 gallon of qualified cellulosic alcohol production.

3 “(B) APPLICABLE AMOUNT.—For purposes
4 of subparagraph (A), the applicable amount
5 means the excess of—

6 “(i) \$1.01, over

7 “(ii) the amount of the credit in effect
8 for alcohol which is ethanol under sub-
9 section (b)(1) (without regard to sub-
10 section (b)(3)) at the time of the qualified
11 cellulosic alcohol production.

12 “(C) LIMITATION.—

13 “(i) IN GENERAL.—No credit shall be
14 allowed to any taxpayer under subpara-
15 graph (A) with respect to any qualified cel-
16 lulosic alcohol production during the tax-
17 able year in excess of 60,000,000 gallons.

18 “(ii) AGGREGATION RULE.—For pur-
19 poses of clause (i), all members of the
20 same controlled group of corporations
21 (within the meaning of section 267(f)) and
22 all persons under common control (within
23 the meaning of section 52(b) but deter-
24 mined by treating an interest of more than

1 50 percent as a controlling interest) shall
2 be treated as 1 person.

3 “(iii) PARTNERSHIP, S CORPORA-
4 TIONS, AND OTHER PASS-THRU ENTI-
5 TIES.—In the case of a partnership, trust,
6 S corporation, or other pass-thru entity,
7 the limitation contained in clause (i) shall
8 be applied at the entity level and at the
9 partner or similar level.

10 “(D) QUALIFIED CELLULOSIC ALCOHOL
11 PRODUCTION.—For purposes of this section,
12 the term ‘qualified cellulosic alcohol production’
13 means any cellulosic biomass alcohol which is
14 produced by the taxpayer and which during the
15 taxable year—

16 “(i) is sold by the taxpayer to another
17 person—

18 “(I) for use by such other person
19 in the production of a qualified alco-
20 hol mixture in such other person’s
21 trade or business (other than casual
22 off-farm production),

23 “(II) for use by such other per-
24 son as a fuel in a trade or business,
25 or

1 “(III) who sells such cellulosic
2 biomass alcohol at retail to another
3 person and places such cellulosic bio-
4 mass alcohol in the fuel tank of such
5 other person, or

6 “(ii) is used or sold by the taxpayer
7 for any purpose described in clause (i).

8 The qualified cellulosic alcohol production of
9 any taxpayer for any taxable year shall not in-
10 clude any alcohol which is purchased by the
11 taxpayer and with respect to which such pro-
12 ducer increases the proof of the alcohol by addi-
13 tional distillation.

14 “(E) CELLULOSIC BIOMASS ALCOHOL.—

15 “(i) IN GENERAL.—The term ‘cel-
16 lulosic biomass alcohol’ has the meaning
17 given such term under section 168(l)(3),
18 but does not include any alcohol with a
19 proof of less than 150.

20 “(ii) DETERMINATION OF PROOF.—

21 The determination of the proof of any alco-
22 hol shall be made without regard to any
23 added denaturants.

24 “(F) COORDINATION WITH SMALL ETH-
25 ANOL PRODUCER CREDIT.—No small ethanol

1 producer credit shall be allowed with respect to
2 any qualified cellulosic alcohol production if
3 credit is determined with respect to such pro-
4 duction under this paragraph.

5 “(G) ALLOCATION OF CELLULOSIC PRO-
6 DUCER CREDIT TO PATRONS OF COOPERA-
7 TIVE.—Rules similar to the rules under sub-
8 section (g)(6) shall apply for purposes of this
9 paragraph.

10 “(H) APPLICATION OF PARAGRAPH.—This
11 paragraph shall apply with respect to qualified
12 cellulosic alcohol production after December 31,
13 2007, and before January 1, 2014.”.

14 (2) TERMINATION DATE NOT TO APPLY.—Sub-
15 section (e) of section 40 (relating to termination) is
16 amended—

17 (A) by inserting “or subsection (b)(5)(H)”
18 after “by reason of paragraph (1)” in para-
19 graph (2), and

20 (B) by adding at the end the following new
21 paragraph:

22 “(3) EXCEPTION FOR CELLULOSIC ALCOHOL
23 PRODUCER CREDIT.—Paragraph (1) shall not apply
24 to the portion of the credit allowed under this sec-
25 tion by reason of subsection (a)(4).”.

1 (c) ALCOHOL NOT USED AS A FUEL, ETC.—

2 (1) IN GENERAL.—Paragraph (3) of section
3 40(d) is amended by redesignating subparagraph
4 (D) as subparagraph (E) and by inserting after sub-
5 paragraph (C) the following new subparagraph:

6 “(D) CELLULOSIC ALCOHOL PRODUCER
7 CREDIT.—If—

8 “(i) any credit is determined under
9 subsection (a)(4), and

10 “(ii) any person does not use such
11 fuel for a purpose described in subsection
12 (b)(5)(D),

13 then there is hereby imposed on such person a
14 tax equal to the applicable amount for each gal-
15 lon of such cellulosic biomass alcohol.”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Subparagraph (C) of section 40(d)(3)
18 is amended by striking “PRODUCER” in the
19 heading and inserting “SMALL ETHANOL PRO-
20 DUCER”.

21 (B) Subparagraph (E) of section 40(d)(3),
22 as redesignated by paragraph (1), is amended
23 by striking “or (C)” and inserting “(C), or
24 (D)”.

1 (d) LIMITATION TO CELLULOSIC ALCOHOL WITH
2 CONNECTION TO THE UNITED STATES.—Subsection (d)
3 of section 40, as amended by this Act, is amended by add-
4 ing at the end the following new paragraph:

5 “(7) LIMITATION TO CELLULOSIC ALCOHOL
6 WITH CONNECTION TO THE UNITED STATES.—No
7 cellulosic alcohol producer credit shall be determined
8 under subsection (a) with respect to any alcohol un-
9 less such alcohol is produced in the United States.”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to fuel produced after December
12 31, 2007.

13 **SEC. 1522. EXPANSION OF SPECIAL ALLOWANCE TO CEL-**
14 **LULOSIC BIOMASS ALCOHOL FUEL PLANT**
15 **PROPERTY.**

16 (a) IN GENERAL.—Paragraph (3) of section 168(l)
17 (relating to special allowance for cellulosic biomass ethanol
18 plant property) is amended to read as follows:

19 “(3) CELLULOSIC BIOMASS ALCOHOL.—For
20 purposes of this subsection, the term ‘cellulosic bio-
21 mass alcohol’ means any alcohol produced from any
22 lignocellulosic or hemicellulosic matter that is avail-
23 able on a renewable or recurring basis.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (l) of section 168 is amended by
2 striking “cellulosic biomass ethanol” each place it
3 appears and inserting “cellulosic biomass alcohol”.

4 (2) The heading of section 168(l) is amended
5 by striking “CELLULOSIC BIOMASS ETHANOL” and
6 inserting “CELLULOSIC BIOMASS ALCOHOL”.

7 (3) The heading of paragraph (2) of section
8 168(l) is amended by striking “CELLULOSIC BIO-
9 MASS ETHANOL” and inserting “CELLULOSIC BIO-
10 MASS ALCOHOL”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to property placed in service after
13 the date of the enactment of this Act, in taxable years
14 ending after such date.

15 **SEC. 1523. MODIFICATION OF ALCOHOL CREDIT.**

16 (a) INCOME TAX CREDIT.—Subsection (h) of section
17 40 (relating to reduced credit for ethanol blenders) is
18 amended by adding at the end the following new para-
19 graph:

20 “(3) REDUCED AMOUNT AFTER SALE OF
21 7,500,000,000 GALLONS.—

22 “(A) IN GENERAL.—In the case of any cal-
23 endar year beginning after the calendar year
24 described in subparagraph (B), the last row in

1 the table in paragraph (2) shall be applied by
2 substituting ‘46 cents’ for ‘51 cents’.

3 “(B) CALENDAR YEAR DESCRIBED.—The
4 calendar year described in this subparagraph is
5 the first calendar year beginning after 2007
6 during which 7,500,000,000 gallons of ethanol
7 (including cellulosic ethanol) have been pro-
8 duced in or imported into the United States, as
9 certified by the Secretary, in consultation with
10 the Administrator of the Environmental Protec-
11 tion Agency.”.

12 (b) EXCISE TAX CREDIT.—

13 (1) IN GENERAL.—Paragraph (2) of section
14 6426(b) (relating to alcohol fuel mixture credit) is
15 amended by adding at the end the following new
16 subparagraph:

17 “(C) REDUCED AMOUNT AFTER SALE OF
18 7,500,000,000 GALLONS.—In the case of any alco-
19 hol fuel mixture produced in a calendar year be-
20 ginning after the calendar year described in sec-
21 tion 40(h)(3)(B), subparagraph (A) shall be ap-
22 plied by substituting ‘46 cents’ for ‘51 cents’.”.

23 (2) CONFORMING AMENDMENT.—Subparagraph
24 (A) of section 6426(b)(2) is amended by striking

1 “subparagraph (B)” and inserting “subparagraphs
2 (B) and (C)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 1524. EXTENSION AND MODIFICATION OF CREDITS**
7 **FOR BIODIESEL AND RENEWABLE DIESEL.**

8 (a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and
9 6427(e)(5)(B) are each amended by striking “December
10 31, 2008” and inserting “December 31, 2010”.

11 (b) UNIFORM TREATMENT OF DIESEL PRODUCED
12 FROM BIOMASS.—Paragraph (3) of section 40A(f) is
13 amended—

14 (1) by striking “using a thermal
15 depolymerization process”, and

16 (2) by striking “or D396” in subparagraph (B)
17 and inserting “or other equivalent standard ap-
18 proved by the Secretary for fuels to be used in die-
19 sel-powered highway vehicles”.

20 (c) ELIGIBILITY OF CERTAIN AVIATION FUEL.—
21 Paragraph (3) of section 40A(f) (defining renewable die-
22 sel) is amended by adding at the end the following new
23 flush sentence:

24 “The term ‘renewable diesel’ also means fuel derived
25 from biomass which meets the requirements of a De-

1 partment of Defense specification for military jet
2 fuel or an American Society of Testing and Mate-
3 rials specification for aviation turbine fuel.”.

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to fuel produced, and sold or used, after
8 the date of the enactment of this Act.

9 (2) UNIFORM TREATMENT OF DIESEL PRO-
10 DUCED FROM BIOMASS.—The amendments made by
11 subsection (b) shall apply to fuel produced, and sold
12 or used, after the date which is 30 days after the
13 date of the enactment of this Act.

14 **SEC. 1525. CLARIFICATION OF ELIGIBILITY FOR RENEW-**
15 **ABLE DIESEL CREDIT.**

16 (a) COPRODUCTION WITH PETROLEUM FEED-
17 STOCK.—

18 (1) IN GENERAL.—Paragraph (3) of section
19 40A(f) (defining renewable diesel), as amended by
20 this Act, is amended by adding at the end the fol-
21 lowing sentence: “Such term does not include any
22 fuel derived from coprocessing biomass with a feed-
23 stock which is not biomass. For purposes of this
24 paragraph, the term ‘biomass’ has the meaning
25 given such term by section 45K(c)(3).”

1 (2) CONFORMING AMENDMENT.—Paragraph (3)
2 of section 40A(f) is amended by striking “(as de-
3 fined in section 45K(c)(3))”.

4 (b) CLARIFICATION OF ELIGIBILITY FOR ALTER-
5 NATIVE FUEL CREDIT.—

6 (1) IN GENERAL.—Subparagraph (F) of section
7 6426(d)(2) is amended by striking “hydrocarbons”
8 and inserting “fuel”.

9 (2) CONFORMING AMENDMENT.—Section 6426
10 is amended by adding at the end the following new
11 subsection:

12 “(h) DENIAL OF DOUBLE BENEFIT.—No credit shall
13 be determined under subsection (d) or (e) with respect to
14 any fuel with respect to which credit may be determined
15 under subsection (b) or (c) or under section 40 or 40A.”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this section
19 shall apply to fuel produced, and sold or used, after
20 December 31, 2007.

21 (2) CLARIFICATION OF ELIGIBILITY FOR AL-
22 TERNATIVE FUEL CREDIT.—The amendment made
23 by subsection (b) shall take effect as if included in
24 section 11113 of the Safe, Accountable, Flexible, Ef-

1 ficient Transportation Equity Act: A Legacy for
2 Users.

3 **SEC. 1526. PROVISIONS CLARIFYING TREATMENT OF FUELS**
4 **WITH NO NEXUS TO THE UNITED STATES.**

5 (a) ALCOHOL FUELS CREDIT.—Subsection (d) of
6 section 40 is amended by adding at the end the following
7 new paragraph:

8 “(6) LIMITATION TO ALCOHOL WITH CONNEC-
9 TION TO THE UNITED STATES.—No credit shall be
10 determined under this section with respect to any al-
11 cohool which is produced outside the United States
12 for use as a fuel outside the United States. For pur-
13 poses of this paragraph, the term ‘United States’ in-
14 cludes any possession of the United States.”.

15 (b) BIODIESEL FUELS CREDIT.—Subsection (d) of
16 section 40A is amended by adding at the end the following
17 new paragraph:

18 “(5) LIMITATION TO BIODIESEL WITH CONNEC-
19 TION TO THE UNITED STATES.—No credit shall be
20 determined under this section with respect to any
21 biodiesel which is produced outside the United
22 States for use as a fuel outside the United States.
23 For purposes of this paragraph, the term ‘United
24 States’ includes any possession of the United
25 States.”.

1 (c) EXCISE TAX CREDIT.—

2 (1) IN GENERAL.—Section 6426, as amended
3 by this Act, is amended by adding at the end the fol-
4 lowing new subsection:

5 “(i) LIMITATION TO FUELS WITH CONNECTION TO
6 THE UNITED STATES.—

7 “(1) ALCOHOL.—No credit shall be determined
8 under this section with respect to any alcohol which
9 is produced outside the United States for use as a
10 fuel outside the United States.

11 “(2) BIODIESEL AND ALTERNATIVE FUELS.—
12 No credit shall be determined under this section
13 with respect to any biodiesel or alternative fuel
14 which is produced outside the United States for use
15 as a fuel outside the United States.

16 For purposes of this subsection, the term ‘United States’
17 includes any possession of the United States.”.

18 (2) CONFORMING AMENDMENT.—Subsection (e)
19 of section 6427 is amended by redesignating para-
20 graph (5) as paragraph (6) and by inserting after
21 paragraph (4) the following new paragraph:

22 “(5) LIMITATION TO FUELS WITH CONNECTION
23 TO THE UNITED STATES.—No amount shall be pay-
24 able under paragraph (1) or (2) with respect to any
25 mixture or alternative fuel if credit is not allowed

1 with respect to such mixture or alternative fuel by
2 reason of section 6426(i).”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to fuel sold or used after the date
5 of the enactment of this Act.

6 **SEC. 1527. COMPREHENSIVE STUDY OF BIOFUELS.**

7 (a) STUDY.—The Secretary of the Treasury, in con-
8 sultation with the Secretary of Agriculture, the Secretary
9 of Energy, and the Administrator of the Environmental
10 Protection Agency, shall enter into an agreement with the
11 National Academy of Sciences to produce an analysis of
12 current scientific findings to determine—

13 (1) current biofuels production, as well as pro-
14 jections for future production,

15 (2) the maximum amount of biofuels production
16 capable on United States farmland,

17 (3) the domestic effects of a dramatic increase
18 in biofuels production on, for example—

19 (A) the price of fuel,

20 (B) the price of land in rural and subur-
21 ban communities,

22 (C) crop acreage and other land use,

23 (D) the environment, due to changes in
24 crop acreage, fertilizer use, runoff, water use,

1 emissions from vehicles utilizing biofuels, and
2 other factors,

3 (E) the price of feed,

4 (F) the selling price of grain crops,

5 (G) exports and imports of grains,

6 (H) taxpayers, through cost or savings to
7 commodity crop payments, and

8 (I) the expansion of refinery capacity,

9 (4) the ability to convert corn ethanol plants for
10 other uses, such as cellulosic ethanol or biodiesel,

11 (5) a comparative analysis of corn ethanol
12 versus other biofuels and renewable energy sources,
13 considering cost, energy output, and ease of imple-
14 mentation, and

15 (6) the need for additional scientific inquiry,
16 and specific areas of interest for future research.

17 (b) REPORT.—The National Academy of Sciences
18 shall submit an initial report of the findings of the report
19 required under subsection (a) to the Congress not later
20 than 3 months after the date of the enactment of this Act,
21 and a final report not later than 6 months after such date
22 of enactment.

1 **PART II—ADVANCED TECHNOLOGY MOTOR**
2 **VEHICLES**

3 **SEC. 1528. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**
4 **DRIVE MOTOR VEHICLES.**

5 (a) IN GENERAL.—Subpart B of part IV of sub-
6 chapter A of chapter 1 (relating to other credits) is
7 amended by adding at the end the following new section:

8 **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**
9 **MOTOR VEHICLES.**

10 “(a) ALLOWANCE OF CREDIT.—There shall be al-
11 lowed as a credit against the tax imposed by this chapter
12 for the taxable year an amount equal to the sum of the
13 credit amounts determined under subsection (b) with re-
14 spect to each new qualified plug-in electric drive motor ve-
15 hicle placed in service by the taxpayer during the taxable
16 year.

17 “(b) PER VEHICLE DOLLAR LIMITATION.—

18 “(1) IN GENERAL.—The amount determined
19 under this subsection with respect to any new quali-
20 fied plug-in electric drive motor vehicle is the sum
21 of the amounts determined under paragraphs (2)
22 and (3) with respect to such vehicle.

23 “(2) BASE AMOUNT.—The amount determined
24 under this paragraph is \$3,000.

25 “(3) BATTERY CAPACITY.—In the case of a ve-
26 hicle which draws propulsion energy from a battery

1 with not less than 5 kilowatt hours of capacity, the
2 amount determined under this paragraph is \$200,
3 plus \$200 for each kilowatt hour of capacity in ex-
4 cess of 5 kilowatt hours. The amount determined
5 under this paragraph shall not exceed \$2,000.

6 “(c) APPLICATION WITH OTHER CREDITS.—

7 “(1) BUSINESS CREDIT TREATED AS PART OF
8 GENERAL BUSINESS CREDIT.—So much of the credit
9 which would be allowed under subsection (a) for any
10 taxable year (determined without regard to this sub-
11 section) that is attributable to property of a char-
12 acter subject to an allowance for depreciation shall
13 be treated as a credit listed in section 38(b) for such
14 taxable year (and not allowed under subsection (a)).

15 “(2) PERSONAL CREDIT.—

16 “(A) IN GENERAL.—For purposes of this
17 title, the credit allowed under subsection (a) for
18 any taxable year (determined after application
19 of paragraph (1)) shall be treated as a credit
20 allowable under subpart A for such taxable
21 year.

22 “(B) LIMITATION BASED ON AMOUNT OF
23 TAX.—In the case of a taxable year to which
24 section 26(a)(2) does not apply, the credit al-
25 lowed under subsection (a) for any taxable year

1 (determined after application of paragraph (1))
2 shall not exceed the excess of—

3 “(i) the sum of the regular tax liabil-
4 ity (as defined in section 26(b)) plus the
5 tax imposed by section 55, over

6 “(ii) the sum of the credits allowable
7 under subpart A (other than this section
8 and sections 23 and 25D) and section 27
9 for the taxable year.

10 “(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE
11 MOTOR VEHICLE.—For purposes of this section—

12 “(1) IN GENERAL.—The term ‘new qualified
13 plug-in electric drive motor vehicle’ means a motor
14 vehicle (as defined in section 30(c)(2))—

15 “(A) the original use of which commences
16 with the taxpayer,

17 “(B) which is acquired for use or lease by
18 the taxpayer and not for resale,

19 “(C) which is made by a manufacturer,

20 “(D) which has a gross vehicle weight rat-
21 ing of less than 14,000 pounds,

22 “(E) which has received a certificate of
23 conformity under the Clean Air Act and meets
24 or exceeds the Bin 5 Tier II emission standard
25 established in regulations prescribed by the Ad-

1 ministrator of the Environmental Protection
2 Agency under section 202(i) of the Clean Air
3 Act for that make and model year vehicle, and

4 “(F) which is propelled to a significant ex-
5 tent by an electric motor which draws electricity
6 from a battery which—

7 “(i) has a capacity of not less than 4
8 kilowatt hours, and

9 “(ii) is capable of being recharged
10 from an external source of electricity.

11 “(2) EXCEPTION.—The term ‘new qualified
12 plug-in electric drive motor vehicle’ shall not include
13 any vehicle which is not a passenger automobile or
14 light truck if such vehicle has a gross vehicle weight
15 rating of less than 8,500 pounds.

16 “(3) OTHER TERMS.—The terms ‘passenger
17 automobile’, ‘light truck’, and ‘manufacturer’ have
18 the meanings given such terms in regulations pre-
19 scribed by the Administrator of the Environmental
20 Protection Agency for purposes of the administra-
21 tion of title II of the Clean Air Act (42 U.S.C. 7521
22 et seq.).

23 “(4) BATTERY CAPACITY.—The term ‘capacity’
24 means, with respect to any battery, the quantity of
25 electricity which the battery is capable of storing, ex-

1 pressed in kilowatt hours, as measured from a 100
2 percent state of charge to a 0 percent state of
3 charge.

4 “(e) LIMITATION ON NUMBER OF NEW QUALIFIED
5 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE
6 FOR CREDIT.—

7 “(1) IN GENERAL.—In the case of a new quali-
8 fied plug-in electric drive motor vehicle sold during
9 the phaseout period, only the applicable percentage
10 of the credit otherwise allowable under subsection
11 (a) shall be allowed.

12 “(2) PHASEOUT PERIOD.—For purposes of this
13 subsection, the phaseout period is the period begin-
14 ning with the second calendar quarter following the
15 calendar quarter which includes the first date on
16 which the number of new qualified plug-in electric
17 drive motor vehicles manufactured by the manufac-
18 turer of the vehicle referred to in paragraph (1) sold
19 for use in the United States after the date of the en-
20 actment of this section, is at least 60,000.

21 “(3) APPLICABLE PERCENTAGE.—For purposes
22 of paragraph (1), the applicable percentage is—

23 “(A) 50 percent for the first 2 calendar
24 quarters of the phaseout period,

1 “(B) 25 percent for the 3d and 4th cal-
2 endar quarters of the phaseout period, and

3 “(C) 0 percent for each calendar quarter
4 thereafter.

5 “(4) CONTROLLED GROUPS.—Rules similar to
6 the rules of section 30B(f)(4) shall apply for pur-
7 poses of this subsection.

8 “(f) SPECIAL RULES.—

9 “(1) BASIS REDUCTION.—The basis of any
10 property for which a credit is allowable under sub-
11 section (a) shall be reduced by the amount of such
12 credit (determined without regard to subsection (c)).

13 “(2) RECAPTURE.—The Secretary shall, by reg-
14 ulations, provide for recapturing the benefit of any
15 credit allowable under subsection (a) with respect to
16 any property which ceases to be property eligible for
17 such credit.

18 “(3) PROPERTY USED OUTSIDE UNITED
19 STATES, ETC., NOT QUALIFIED.—No credit shall be
20 allowed under subsection (a) with respect to any
21 property referred to in section 50(b)(1) or with re-
22 spect to the portion of the cost of any property
23 taken into account under section 179.

24 “(4) ELECTION NOT TO TAKE CREDIT.—No
25 credit shall be allowed under subsection (a) for any

1 vehicle if the taxpayer elects to not have this section
2 apply to such vehicle.

3 “(5) PROPERTY USED BY TAX-EXEMPT ENTITY;
4 INTERACTION WITH AIR QUALITY AND MOTOR VEHI-
5 CLE SAFETY STANDARDS.—Rules similar to the rules
6 of paragraphs (6) and (10) of section 30B(h) shall
7 apply for purposes of this section.”.

8 (b) COORDINATION WITH ALTERNATIVE MOTOR VE-
9 HICLE CREDIT.—Section 30B(d)(3) is amended by adding
10 at the end the following new subparagraph:

11 “(D) EXCLUSION OF PLUG-IN VEHICLES.—
12 Any vehicle with respect to which a credit is al-
13 lowable under section 30D (determined without
14 regard to subsection (c) thereof) shall not be
15 taken into account under this section.”.

16 (c) CREDIT MADE PART OF GENERAL BUSINESS
17 CREDIT.—Section 38(b), as amended by this Act, is
18 amended—

19 (1) by striking “and” each place it appears at
20 the end of any paragraph,

21 (2) by striking “plus” each place it appears at
22 the end of any paragraph,

23 (3) by striking the period at the end of para-
24 graph (31) and inserting “, plus”, and

1 (4) by adding at the end the following new
2 paragraph:

3 “(32) the portion of the new qualified plug-in
4 electric drive motor vehicle credit to which section
5 30D(c)(1) applies.”.

6 (d) CONFORMING AMENDMENTS.—

7 (1)(A) Section 24(b)(3)(B), as amended by this
8 Act, is amended by striking “and 25D” and insert-
9 ing “25D, and 30D”.

10 (B) Section 25(e)(1)(C)(ii) is amended by in-
11 serting “30D,” after “25D,”.

12 (C) Section 25B(g)(2), as amended by this Act,
13 is amended by striking “and 25D” and inserting “,
14 25D, and 30D”.

15 (D) Section 26(a)(1), as amended by this Act,
16 is amended by striking “and 25D” and inserting
17 “25D, and 30D”.

18 (E) Section 1400C(d)(2) is amended by striking
19 “and 25D” and inserting “25D, and 30D”.

20 (2) Section 1016(a) is amended by striking
21 “and” at the end of paragraph (36), by striking the
22 period at the end of paragraph (37) and inserting “,
23 and”, and by adding at the end the following new
24 paragraph:

1 “(38) to the extent provided in section
2 30D(f)(1).”.

3 (3) Section 6501(m) is amended by inserting
4 “30D(f)(4),” after “30C(e)(5),”.

5 (4) The table of sections for subpart B of part
6 IV of subchapter A of chapter 1 is amended by add-
7 ing at the end the following new item:

“Sec. 30D. New qualified plug-in electric drive motor vehicles.”.

8 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE
9 CREDIT AS A PERSONAL CREDIT.—

10 (1) IN GENERAL.—Paragraph (2) of section
11 30B(g) is amended to read as follows:

12 “(2) PERSONAL CREDIT.—The credit allowed
13 under subsection (a) for any taxable year (after ap-
14 plication of paragraph (1)) shall be treated as a
15 credit allowable under subpart A for such taxable
16 year.”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Subparagraph (A) of section 30C(d)(2)
19 is amended by striking “sections 27, 30, and
20 30B” and inserting “sections 27 and 30”.

21 (B) Paragraph (3) of section 55(c) is
22 amended by striking “30B(g)(2),”.

23 (f) CONVERSION KITS.—

24 (1) IN GENERAL.—Section 30B (relating to al-
25 ternative motor vehicle credit) is amended by redes-

1 ignating subsections (i) and (j) as subsections (j)
2 and (k), respectively, and by inserting after sub-
3 section (h) the following new subsection:

4 “(i) PLUG-IN CONVERSION CREDIT.—

5 “(1) IN GENERAL.—For purposes of subsection
6 (a), the plug-in conversion credit determined under
7 this subsection with respect to any motor vehicle
8 which is converted to a qualified plug-in electric
9 drive motor vehicle is an amount equal to 20 percent
10 of the cost of the plug-in traction battery module in-
11 stalled in such vehicle as part of such conversion.

12 “(2) LIMITATIONS.—The amount of the credit
13 allowed under this subsection shall not exceed
14 \$2,500 with respect to the conversion of any motor
15 vehicle.

16 “(3) DEFINITIONS AND SPECIAL RULES.—For
17 purposes of this subsection—

18 “(A) QUALIFIED PLUG-IN ELECTRIC DRIVE
19 MOTOR VEHICLE.—The term ‘qualified plug-in
20 electric drive motor vehicle’ means any new
21 qualified plug-in electric drive motor vehicle (as
22 defined in section 30D(d)(1), determined with-
23 out regard to subparagraphs (A) and (C) there-
24 of).

1 “(B) PLUG-IN TRACTION BATTERY MOD-
2 ULE.—The term ‘plug-in traction battery mod-
3 ule’ means an electro-chemical energy storage
4 device which—

5 “(i) has a traction battery capacity of
6 not less than 2.5 kilowatt hours,

7 “(ii) is equipped with an electrical
8 plug by means of which it can be energized
9 and recharged when plugged into an exter-
10 nal source of electric power,

11 “(iii) consists of a standardized con-
12 figuration and is mass produced,

13 “(iv) has been tested and approved by
14 the National Highway Transportation
15 Safety Administration as compliant with
16 applicable motor vehicle and motor vehicle
17 equipment safety standards when installed
18 by a mechanic with standardized training
19 in protocols established by the battery
20 manufacturer as part of a nationwide dis-
21 tribution program, and

22 “(v) is certified by a battery manufac-
23 turer as meeting the requirements of
24 clauses (i) through (iv).

1 “(C) CREDIT ALLOWED TO LESSOR OF
2 BATTERY MODULE.—In the case of a plug-in
3 traction battery module which is leased to the
4 taxpayer, the credit allowed under this sub-
5 section shall be allowed to the lessor of the
6 plug-in traction battery module.

7 “(D) CREDIT ALLOWED IN ADDITION TO
8 OTHER CREDITS.—The credit allowed under
9 this subsection shall be allowed with respect to
10 a motor vehicle notwithstanding whether a cred-
11 it has been allowed with respect to such motor
12 vehicle under this section (other than this sub-
13 section) in any preceding taxable year.

14 “(4) TERMINATION.—This subsection shall not
15 apply to conversions made after December 31,
16 2010.”.

17 (2) CREDIT TREATED AS PART OF ALTER-
18 NATIVE MOTOR VEHICLE CREDIT.—Section 30B(a)
19 is amended by striking “and” at the end of para-
20 graph (3), by striking the period at the end of para-
21 graph (4) and inserting “, and”, and by adding at
22 the end the following new paragraph:

23 “(5) the plug-in conversion credit determined
24 under subsection (i).”.

1 (3) NO RECAPTURE FOR VEHICLES CONVERTED
2 TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VE-
3 HICLES.—Paragraph (8) of section 30B(h) is
4 amended by adding at the end the following: “, ex-
5 cept that no benefit shall be recaptured if such prop-
6 erty ceases to be eligible for such credit by reason
7 of conversion to a qualified plug-in electric drive
8 motor vehicle.”

9 (g) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, the amendments made by
12 this section shall apply to taxable years beginning
13 after December 31, 2007.

14 (2) TREATMENT OF ALTERNATIVE MOTOR VE-
15 HICLE CREDIT AS PERSONAL CREDIT.—The amend-
16 ments made by subsection (e) shall apply to taxable
17 years beginning after December 31, 2006.

18 (3) CONVERSION KITS.—The amendments made
19 by subsection (f) shall apply to property placed in
20 service after December 31, 2007, in taxable years
21 beginning after such date.

22 (h) APPLICATION OF EGTRRA SUNSET.—The
23 amendment made by subsection (d)(1)(A) shall be subject
24 to title IX of the Economic Growth and Tax Relief Rec-

1 conciliation Act of 2001 in the same manner as the provi-
2 sion of such Act to which such amendment relates.

3 **SEC. 1529. EXCLUSION FROM HEAVY TRUCK TAX FOR**
4 **IDLING REDUCTION UNITS AND ADVANCED**
5 **INSULATION.**

6 (a) IN GENERAL.—Section 4053 (relating to exemp-
7 tions) is amended by adding at the end the following new
8 paragraphs:

9 “(9) IDLING REDUCTION DEVICE.—Any device
10 or system of devices which—

11 “(A) is designed to provide to a vehicle
12 those services (such as heat, air conditioning, or
13 electricity) that would otherwise require the op-
14 eration of the main drive engine while the vehi-
15 cle is temporarily parked or remains stationary
16 using either—

17 “(i) an all electric unit, such as a bat-
18 tery powered unit or from grid-supplied
19 electricity, or

20 “(ii) a dual fuel unit powered by die-
21 sel or other fuels, and capable of providing
22 such services from grid-supplied electricity
23 or on-truck batteries alone, and

24 “(B) is certified by the Secretary of En-
25 ergy, in consultation with the Administrator of

1 the Environmental Protection Agency and the
2 Secretary of Transportation, to reduce long-du-
3 ration idling of such vehicle at a motor vehicle
4 rest stop or other location where such vehicles
5 are temporarily parked or remain stationary.

6 For purposes of subparagraph (B), the term ‘long-
7 duration idling’ means the operation of a main drive
8 engine, for a period greater than 15 consecutive
9 minutes, where the main drive engine is not engaged
10 in gear. Such term does not apply to routine stop-
11 pages associated with traffic movement or conges-
12 tion.

13 “(10) ADVANCED INSULATION.—Any insulation
14 that has an R value of not less than R35 per inch.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to sales or installations after De-
17 cember 31, 2007.

18 **PART III—OTHER TRANSPORTATION PROVISIONS**

19 **SEC. 1530. RESTRUCTURING OF NEW YORK LIBERTY ZONE**

20 **TAX CREDITS.**

21 (a) IN GENERAL.—Part I of subchapter Y of chapter
22 1 is amended by redesignating section 1400L as section
23 1400K and by adding at the end the following new section:

1 “SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

2 “(a) IN GENERAL.—In the case of a New York Lib-
3 erty Zone governmental unit, there shall be allowed as a
4 credit against any taxes imposed for any payroll period
5 by section 3402 for which such governmental unit is liable
6 under section 3403 an amount equal to so much of the
7 portion of the qualifying project expenditure amount allo-
8 cated under subsection (b)(3) to such governmental unit
9 for the calendar year as is allocated by such governmental
10 unit to such period under subsection (b)(4).

11 “(b) QUALIFYING PROJECT EXPENDITURE
12 AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying
project expenditure amount’ means, with respect to
any calendar year, the sum of—

“(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

23 “(B) any such expenditures—

24 “(i) paid or incurred in any preceding
25 calendar year which begins after the date
26 of enactment of this section, and

1 “(ii) not previously allocated under
2 paragraph (3).

3 “(2) QUALIFYING PROJECT.—The term ‘quali-
4 fying project’ means any transportation infrastruc-
5 ture project, including highways, mass transit sys-
6 tems, railroads, airports, ports, and waterways, in or
7 connecting with the New York Liberty Zone (as de-
8 fined in section 1400K(h)), which is designated as a
9 qualifying project under this section jointly by the
10 Governor of the State of New York and the Mayor
11 of the City of New York, New York.

12 “(3) GENERAL ALLOCATION.—

13 “(A) IN GENERAL.—The Governor of the
14 State of New York and the Mayor of the City
15 of New York, New York, shall jointly allocate to
16 each New York Liberty Zone governmental unit
17 the portion of the qualifying project expenditure
18 amount which may be taken into account by
19 such governmental unit under subsection (a) for
20 any calendar year in the credit period.

21 “(B) AGGREGATE LIMIT.—The aggregate
22 amount which may be allocated under subpara-
23 graph (A) for all calendar years in the credit
24 period shall not exceed \$2,000,000,000.

1 “(C) ANNUAL LIMIT.—The aggregate
2 amount which may be allocated under subpara-
3 graph (A) for any calendar year in the credit
4 period shall not exceed the sum of—

5 “(i) \$115,000,000 (\$425,000,000 in
6 the case of the last 2 years in the credit
7 period), plus

8 “(ii) the aggregate amount authorized
9 to be allocated under this paragraph for all
10 preceding calendar years in the credit pe-
11 riod which was not so allocated.

12 “(D) UNALLOCATED AMOUNTS AT END OF
13 CREDIT PERIOD.—If, as of the close of the cred-
14 it period, the amount under subparagraph (B)
15 exceeds the aggregate amount allocated under
16 subparagraph (A) for all calendar years in the
17 credit period, the Governor of the State of New
18 York and the Mayor of the City of New York,
19 New York, may jointly allocate to New York
20 Liberty Zone governmental units for any cal-
21 endar year in the 5-year period following the
22 credit period an amount equal to—

23 “(i) the lesser of—

24 “(I) such excess, or

1 “(II) the qualifying project ex-
2 penditure amount for such calendar
3 year, reduced by

4 “(ii) the aggregate amount allocated
5 under this subparagraph for all preceding
6 calendar years.

7 “(4) ALLOCATION TO PAYROLL PERIODS.—
8 Each New York Liberty Zone governmental unit
9 which has been allocated a portion of the qualifying
10 project expenditure amount under paragraph (3) for
11 a calendar year may allocate such portion to payroll
12 periods beginning in such calendar year as such gov-
13 ernmental unit determines appropriate.

14 “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), if the amount allocated under subsection
17 (b)(3) to a New York Liberty Zone governmental
18 unit for any calendar year exceeds the aggregate
19 taxes imposed by section 3402 for which such gov-
20 ernmental unit is liable under section 3403 for peri-
21 ods beginning in such year, such excess shall be car-
22 ried to the succeeding calendar year and added to
23 the allocation of such governmental unit for such
24 succeeding calendar year.

1 “(2) REALLOCATION.—If a New York Liberty
2 Zone governmental unit does not use an amount al-
3 located to it under subsection (b)(3) within the time
4 prescribed by the Governor of the State of New York
5 and the Mayor of the City of New York, New York,
6 then such amount shall after such time be treated
7 for purposes of subsection (b)(3) in the same man-
8 ner as if it had never been allocated.

9 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
10 poses of this section—

11 “(1) CREDIT PERIOD.—The term ‘credit period’
12 means the 12-year period beginning on January 1,
13 2008.

14 “(2) NEW YORK LIBERTY ZONE GOVERN-
15 MENTAL UNIT.—The term ‘New York Liberty Zone
16 governmental unit’ means—

17 “(A) the State of New York,

18 “(B) the City of New York, New York, and

19 “(C) any agency or instrumentality of such
20 State or City.

21 “(3) TREATMENT OF FUNDS.—Any expenditure
22 for a qualifying project taken into account for pur-
23 poses of the credit under this section shall be consid-
24 ered State and local funds for the purpose of any
25 Federal program.

1 “(4) TREATMENT OF CREDIT AMOUNTS FOR
2 PURPOSES OF WITHHOLDING TAXES.—For purposes
3 of this title, a New York Liberty Zone governmental
4 unit shall be treated as having paid to the Secretary,
5 on the day on which wages are paid to employees,
6 an amount equal to the amount of the credit allowed
7 to such entity under subsection (a) with respect to
8 such wages, but only if such governmental unit de-
9 ducts and withholds wages for such payroll period
10 under section 3401 (relating to wage withholding).

11 “(e) REPORTING.—The Governor of the State of New
12 York and the Mayor of the City of New York, New York,
13 shall jointly submit to the Secretary an annual report—

14 “(1) which certifies—

15 “(A) the qualifying project expenditure
16 amount for the calendar year, and

17 “(B) the amount allocated to each New
18 York Liberty Zone governmental unit under
19 subsection (b)(3) for the calendar year, and

20 “(2) includes such other information as the
21 Secretary may require to carry out this section.

22 “(f) GUIDANCE.—The Secretary may prescribe such
23 guidance as may be necessary or appropriate to ensure
24 compliance with the purposes of this section.”.

1 (b) TERMINATION OF SPECIAL ALLOWANCE AND EX-
2 PENSING.—Subparagraph (A) of section 1400K(b)(2), as
3 redesignated by subsection (a), is amended by striking the
4 parenthetical therein and inserting “(in the case of non-
5 residential real property and residential rental property,
6 the date of the enactment of the Clean Renewable Energy
7 and Conservation Tax Act of 2007 or, if acquired pursu-
8 ant to a binding contract in effect on such enactment date,
9 December 31, 2009)”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) Section 38(c)(3)(B) is amended by striking
12 “section 1400L(a)” and inserting “section
13 1400K(a)”.

14 (2) Section 168(k)(2)(D)(ii) is amended by
15 striking “section 1400L(c)(2)” and inserting “sec-
16 tion 1400K(c)(2)”.

17 (3) The table of sections for part I of sub-
18 chapter Y of chapter 1 is amended by redesignating
19 the item relating to section 1400L as an item relat-
20 ing to section 1400K and by inserting after such
21 item the following new item:

“Sec. 1400L. New York Liberty Zone tax credits.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act.

1 SEC. 1531. EXTENSION OF TRANSPORTATION FRINGE BEN-
2 EFIT TO BICYCLE COMMUTERS.

(a) IN GENERAL.—Paragraph (1) of section 132(f) of the Internal Revenue Code of 1986 (relating to general rule for qualified transportation fringe) is amended by adding at the end the following:

7 “(D) Any qualified bicycle commuting re-
8 imbursement.”.

(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) of such Code is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

14 “(C) the applicable annual limitation in
15 the case of any qualified bicycle commuting re-
16 imbursement.”.

(c) DEFINITIONS.—Paragraph (5) of section 132(f) of such Code (relating to definitions) is amended by adding at the end the following:

20 “(F) DEFINITIONS RELATED TO BICYCLE
21 COMMUTING REIMBURSEMENT.—

“(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term ‘qualified bicycle commuting reimbursement’ means, with respect to any calendar year, any employer reimbursement during the 15-month

1 period beginning with the first day of such
2 calendar year for reasonable expenses in-
3 curred by the employee during such cal-
4 endar year for the purchase of a bicycle
5 and bicycle improvements, repair, and stor-
6 age, if such bicycle is regularly used for
7 travel between the employee's residence
8 and place of employment.

9 “(ii) APPLICABLE ANNUAL LIMITA-
10 TION.—The term ‘applicable annual limita-
11 tion’ means, with respect to any employee
12 for any calendar year, the product of \$20
13 multiplied by the number of qualified bicy-
14 cle commuting months during such year.

15 “(iii) QUALIFIED BICYCLE COM-
16 MUTING MONTH.—The term ‘qualified bi-
17 cycle commuting month’ means, with re-
18 spect to any employee, any month during
19 which such employee—

20 “(I) regularly uses the bicycle for
21 a substantial portion of the travel be-
22 tween the employee's residence and
23 place of employment, and

1 “(II) does not receive any benefit
2 described in subparagraph (A), (B),
3 or (C) of paragraph (1).”.

4 (d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Para-
5 graph (4) of section 132(f) is amended by inserting
6 “(other than a qualified bicycle commuting reimburse-
7 ment)” after “qualified transportation fringe”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2007.

11 **SEC. 1532. EXTENSION AND MODIFICATION OF ELECTION**
12 **TO EXPENSE CERTAIN REFINERIES.**

13 (a) EXTENSION.—Paragraph (1) of section 179C(c)
14 (relating to qualified refinery property) is amended—

15 (1) by striking “January 1, 2012” in subpara-
16 graph (B) and inserting “January 1, 2014”, and

17 (2) by striking “January 1, 2008” each place
18 it appears in subparagraph (F) and inserting “Janu-
19 ary 1, 2010”.

20 (b) INCLUSION OF FUEL DERIVED FROM SHALE AND
21 TAR SANDS.—

22 (1) IN GENERAL.—Subsection (d) of section
23 179C is amended by inserting “, or directly from
24 shale or tar sands” after “(as defined in section
25 45K(c))”.

1 (2) CONFORMING AMENDMENT.—Paragraph (2)
2 of section 179C(e) is amended by inserting “shale,
3 tar sands, or” before “qualified fuels”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to property placed in service after
6 the date of the enactment of this Act.

7 **Subtitle C—Energy Conservation** 8 **and Efficiency**

9 **PART I—CONSERVATION TAX CREDIT BONDS**

10 **SEC. 1541. QUALIFIED ENERGY CONSERVATION BONDS.**

11 (a) IN GENERAL.—Subpart I of part IV of sub-
12 chapter A of chapter 1, as added by this title, is amended
13 by adding at the end the following new section:

14 **“SEC. 54C. QUALIFIED ENERGY CONSERVATION BONDS.**

15 “(a) QUALIFIED ENERGY CONSERVATION BOND.—
16 For purposes of this subchapter, the term ‘qualified en-
17 ergy conservation bond’ means any bond issued as part
18 of an issue if—

19 “(1) 100 percent of the available project pro-
20 ceeds of such issue are to be used for one or more
21 qualified conservation purposes,

22 “(2) the bond is issued by a State or local gov-
23 ernment, and

24 “(3) the issuer designates such bond for pur-
25 poses of this section.

1 “(b) LIMITATION ON AMOUNT OF BONDS DES-
2 IGNATED.—The maximum aggregate face amount of
3 bonds which may be designated under subsection (a) by
4 any issuer shall not exceed the limitation amount allocated
5 to such issuer under subsection (d).

6 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
7 DESIGNATED.—There is a national qualified energy con-
8 servation bond limitation of \$3,000,000,000.

9 “(d) ALLOCATIONS.—

10 “(1) IN GENERAL.—The limitation applicable
11 under subsection (c) shall be allocated by the Sec-
12 retary among the States in proportion to the popu-
13 lation of the States.

14 “(2) ALLOCATIONS TO LARGEST LOCAL GOV-
15 ERNMENTS.—

16 “(A) IN GENERAL.—In the case of any
17 State in which there is a large local govern-
18 ment, each such local government shall be allo-
19 cated a portion of such State’s allocation which
20 bears the same ratio to the State’s allocation
21 (determined without regard to this subpara-
22 graph) as the population of such large local
23 government bears to the population of such
24 State.

1 “(B) ALLOCATION OF UNUSED LIMITATION
2 TO STATE.—The amount allocated under this
3 subsection to a large local government may be
4 reallocated by such local government to the
5 State in which such local government is located.

6 “(C) LARGE LOCAL GOVERNMENT.—For
7 purposes of this section, the term ‘large local
8 government’ means any municipality or county
9 if such municipality or county has a population
10 of 100,000 or more.

11 “(3) ALLOCATION TO ISSUERS; RESTRICTION
12 ON PRIVATE ACTIVITY BONDS.—Any allocation
13 under this subsection to a State or large local gov-
14 ernment shall be allocated by such State or large
15 local government to issuers within the State in a
16 manner that results in not less than 70 percent of
17 the allocation to such State or large local govern-
18 ment being used to designate bonds which are not
19 private activity bonds.

20 “(e) QUALIFIED CONSERVATION PURPOSE.—For
21 purposes of this section—

22 “(1) IN GENERAL.—The term ‘qualified con-
23 servation purpose’ means any of the following:

24 “(A) Capital expenditures incurred for
25 purposes of—

1 “(i) reducing energy consumption in
2 publicly-owned buildings by at least 20
3 percent,

4 “(ii) implementing green community
5 programs, or

6 “(iii) rural development involving the
7 production of electricity from renewable
8 energy resources.

9 “(B) Expenditures with respect to research
10 facilities, and research grants, to support re-
11 search in—

12 “(i) development of cellulosic ethanol
13 or other nonfossil fuels,

14 “(ii) technologies for the capture and
15 sequestration of carbon dioxide produced
16 through the use of fossil fuels,

17 “(iii) increasing the efficiency of exist-
18 ing technologies for producing nonfossil
19 fuels,

20 “(iv) automobile battery technologies
21 and other technologies to reduce fossil fuel
22 consumption in transportation, or

23 “(v) technologies to reduce energy use
24 in buildings.

1 “(C) Mass commuting facilities and related
2 facilities that reduce the consumption of energy,
3 including expenditures to reduce pollution from
4 vehicles used for mass commuting.

5 “(D) Demonstration projects designed to
6 promote the commercialization of—

7 “(i) green building technology,

8 “(ii) conversion of agricultural waste
9 for use in the production of fuel or other-
10 wise,

11 “(iii) advanced battery manufacturing
12 technologies,

13 “(iv) technologies to reduce peak use
14 of electricity, or

15 “(v) technologies for the capture and
16 sequestration of carbon dioxide emitted
17 from combusting fossil fuels in order to
18 produce electricity.

19 “(E) Public education campaigns to pro-
20 mote energy efficiency.

21 “(2) SPECIAL RULES FOR PRIVATE ACTIVITY
22 BONDS.—For purposes of this section, in the case of
23 any private activity bond, the term ‘qualified con-
24 servation purposes’ shall not include any expenditure
25 which is not a capital expenditure.

1 “(f) POPULATION.—

2 “(1) IN GENERAL.—The population of any
3 State or local government shall be determined for
4 purposes of this section as provided in section 146(j)
5 for the calendar year which includes the date of the
6 enactment of this section.

7 “(2) SPECIAL RULE FOR COUNTIES.—In deter-
8 mining the population of any county for purposes of
9 this section, any population of such county which is
10 taken into account in determining the population of
11 any municipality which is a large local government
12 shall not be taken into account in determining the
13 population of such county.

14 “(g) APPLICATION TO INDIAN TRIBAL GOVERN-
15 MENTS.—An Indian tribal government shall be treated for
16 purposes of this section in the same manner as a large
17 local government, except that—

18 “(1) an Indian tribal government shall be treat-
19 ed for purposes of subsection (d) as located within
20 a State to the extent of so much of the population
21 of such government as resides within such State,
22 and

23 “(2) any bond issued by an Indian tribal gov-
24 ernment shall be treated as a qualified energy con-
25 servation bond only if issued as part of an issue the

1 available project proceeds of which are used for pur-
2 poses for which such Indian tribal government could
3 issue bonds to which section 103(a) applies.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Paragraph (1) of section 54A(d), as added
6 by this title, is amended to read as follows:

7 “(1) QUALIFIED TAX CREDIT BOND.—The term
8 ‘qualified tax credit bond’ means—

9 “(A) a new clean renewable energy bond,
10 or

11 “(B) a qualified energy conservation bond,
12 which is part of an issue that meets requirements of
13 paragraphs (2), (3), (4), (5), and (6).”.

14 (2) Subparagraph (C) of section 54A(d)(2), as
15 added by this title, is amended to read as follows:

16 “(C) QUALIFIED PURPOSE.—For purposes
17 of this paragraph, the term ‘qualified purpose’
18 means—

19 “(i) in the case of a new clean renew-
20 able energy bond, a purpose specified in
21 section 54B(a)(1), and

22 “(ii) in the case of a qualified energy
23 conservation bond, a purpose specified in
24 section 54C(a)(1).”.

1 (3) The table of sections for subpart I of part
2 IV of subchapter A of chapter 1, as amended by this
3 title, is amended by adding at the end the following
4 new item:

“Sec. 54C. Qualified energy conservation bonds.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to obligations issued after the date
7 of the enactment of this Act.

8 **SEC. 1542. QUALIFIED FORESTRY CONSERVATION BONDS.**

9 (a) IN GENERAL.—Subpart I of part IV of sub-
10 chapter A of chapter 1, as added by this title, is amended
11 by adding at the end the following new section:

12 **“SEC. 54D. QUALIFIED FORESTRY CONSERVATION BONDS.**

13 “(a) QUALIFIED FORESTRY CONSERVATION BOND.—
14 For purposes of this subchapter, the term ‘qualified for-
15 estry conservation bond’ means any bond issued as part
16 of an issue if—

17 “(1) 100 percent of the available proceeds of
18 such issue are to be used for one or more qualified
19 forestry conservation projects,

20 “(2) the bond is issued by a qualified issuer,
21 and

22 “(3) the issuer designates such bond for pur-
23 poses of this section.

24 “(b) LIMITATION ON AMOUNT OF BONDS DES-
25 IGNATED.—The maximum aggregate face amount of

1 bonds which may be designated under subsection (a) by
2 any issuer shall not exceed the limitation amount allocated
3 to such issuer under subsection (d).

4 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
5 DESIGNATED.—There is a national qualified forestry con-
6 servation bond limitation of \$500,000,000.

7 “(d) ALLOCATIONS.—

8 “(1) IN GENERAL.—The Secretary shall make
9 allocations of the amount of the national qualified
10 forestry conservation bond limitation described in
11 subsection (c) among qualified forestry conservation
12 projects in such manner as the Secretary determines
13 appropriate so as to ensure that all of such limita-
14 tion is allocated before the date which is 24 months
15 after the date of the enactment of this section.

16 “(2) SOLICITATION OF APPLICATIONS.—The
17 Secretary shall solicit applications for allocations of
18 the national qualified forestry conservation bond lim-
19 itation described in subsection (c) not later than 90
20 days after the date of the enactment of this section.

21 “(e) QUALIFIED FORESTRY CONSERVATION
22 PROJECT.—For purposes of this section, the term ‘quali-
23 fied forestry conservation project’ means the acquisition
24 by a State or 501(c)(3) organization (as defined in section

1 150(a)(4)) from an unrelated person of forest and forest
2 land that meets the following qualifications:

3 “(1) Some portion of the land acquired must be
4 adjacent to United States Forest Service Land.

5 “(2) At least half of the land acquired must be
6 transferred to the United States Forest Service at
7 no net cost to the United States and not more than
8 half of the land acquired may either remain with or
9 be donated to a State.

10 “(3) All of the land must be subject to a native
11 fish habitat conservation plan approved by the
12 United States Fish and Wildlife Service.

13 “(4) The amount of acreage acquired must be
14 at least 40,000 acres.

15 “(f) QUALIFIED ISSUER.—For purposes of this sec-
16 tion, the term ‘qualified issuer’ means a State or 501(c)(3)
17 organization (as defined in section 150(a)(4)).

18 “(g) SPECIAL ARBITRAGE RULE.—In the case of any
19 qualified forestry conservation bond issued as part of an
20 issue, section 54A(d)(4)(C) shall be applied to such issue
21 without regard to clause (i).”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Paragraph (1) of section 54A(d), as added
24 by this title, is amended to read as follows:

1 “(1) QUALIFIED TAX CREDIT BOND.—The term
2 ‘qualified tax credit bond’ means—

3 “(A) a new clean renewable energy bond,

4 “(B) a qualified energy conservation bond,

5 or

6 “(C) a qualified forestry conservation
7 bond,

8 which is part of an issue that meets requirements of
9 paragraphs (2), (3), (4), (5), and (6).”.

10 (2) Subparagraph (C) of section 54A(d)(2), as
11 added by this title, is amended to read as follows:

12 “(C) QUALIFIED PURPOSE.—For purposes
13 of this paragraph, the term ‘qualified purpose’
14 means—

15 “(i) in the case of a new clean renew-
16 able energy bond, a purpose specified in
17 section 54B(a)(1),

18 “(ii) in the case of a qualified energy
19 conservation bond, a purpose specified in
20 section 54C(a)(1), and

21 “(iii) in the case of a qualified for-
22 estry conservation bond, a purpose speci-
23 fied in section 54D(a)(1).”.

24 (3) The table of sections for subpart I of part
25 IV of subchapter A of chapter 1, as amended by this

1 title, is amended by adding at the end the following
2 new item:

“Sec. 54C. Qualified forestry conservation bonds.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to obligations issued after the date
5 of the enactment of this Act.

6 **PART II—EFFICIENCY**

7 **SEC. 1543. EXTENSION AND MODIFICATION OF ENERGY EF-**
8 **FICIENT EXISTING HOMES CREDIT.**

9 (a) EXTENSION OF CREDIT.—Section 25C(g) (relat-
10 ing to termination) is amended by striking “December 31,
11 2007” and inserting “December 31, 2008”.

12 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

13 (1) IN GENERAL.—Section 25C(d)(3) is amend-
14 ed—

15 (A) by striking “and” at the end of sub-
16 paragraph (D),

17 (B) by striking the period at the end of
18 subparagraph (E) and inserting “, and”, and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(F) a stove which uses the burning of bio-
22 mass fuel to heat a dwelling unit located in the
23 United States and used as a residence by the
24 taxpayer, or to heat water for use in such a

1 dwelling unit, and which has a thermal effi-
2 ciency rating of at least 75 percent.”.

3 (2) BIOMASS FUEL.—Section 25C(d) (relating
4 to residential energy property expenditures) is
5 amended by adding at the end the following new
6 paragraph:

7 “(6) BIOMASS FUEL.—The term ‘biomass fuel’
8 means any plant-derived fuel available on a renew-
9 able or recurring basis, including agricultural crops
10 and trees, wood and wood waste and residues (in-
11 cluding wood pellets), plants (including aquatic
12 plants), grasses, residues, and fibers.”.

13 (c) EFFECTIVE DATE.—The amendments made this
14 section shall apply to expenditures made after December
15 31, 2007.

16 **SEC. 1544. EXTENSION AND MODIFICATION OF ENERGY EF-**
17 **FICIENT COMMERCIAL BUILDINGS DEDUC-**
18 **TION.**

19 Subsection (h) of section 179D (relating to termi-
20 nation) is amended by striking “December 31, 2008” and
21 inserting “December 31, 2013”.

1 **SEC. 1545. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
2 **ANCE CREDIT FOR APPLIANCES PRODUCED**
3 **AFTER 2007.**

4 (a) IN GENERAL.—Subsection (b) of section 45M (re-
5 lating to applicable amount) is amended to read as follows:

6 “(b) APPLICABLE AMOUNT.—For purposes of sub-
7 section (a)—

8 “(1) DISHWASHERS.—The applicable amount
9 is—

10 “(A) \$45 in the case of a dishwasher which
11 is manufactured in calendar year 2008 or 2009
12 and which uses no more than 324 kilowatt
13 hours per year and 5.8 gallons per cycle, and

14 “(B) \$75 in the case of a dishwasher
15 which is manufactured in calendar year 2008,
16 2009, or 2010 and which uses no more than
17 307 kilowatt hours per year and 5.0 gallons per
18 cycle (5.5 gallons per cycle for dishwashers de-
19 signed for greater than 12 place settings).

20 “(2) CLOTHES WASHERS.—The applicable
21 amount is—

22 “(A) \$75 in the case of a residential top-
23 loading clothes washer manufactured in cal-
24 endar year 2008 which meets or exceeds a 1.72
25 modified energy factor and does not exceed a
26 8.0 water consumption factor,

1 “(B) \$125 in the case of a residential top-
2 loading clothes washer manufactured in cal-
3 endar year 2008 or 2009 which meets or ex-
4 ceeds a 1.8 modified energy factor and does not
5 exceed a 7.5 water consumption factor,

6 “(C) \$150 in the case of a residential or
7 commercial clothes washer manufactured in cal-
8 endar year 2008, 2009 or 2010 which meets or
9 exceeds 2.0 modified energy factor and does not
10 exceed a 6.0 water consumption factor, and

11 “(D) \$250 in the case of a residential or
12 commercial clothes washer manufactured in cal-
13 endar year 2008, 2009, or 2010 which meets or
14 exceeds 2.2 modified energy factor and does not
15 exceed a 4.5 water consumption factor.

16 “(3) REFRIGERATORS.—The applicable amount
17 is—

18 “(A) \$50 in the case of a refrigerator
19 which is manufactured in calendar year 2008,
20 and consumes at least 20 percent but not more
21 than 22.9 percent less kilowatt hours per year
22 than the 2001 energy conservation standards,

23 “(B) \$75 in the case of a refrigerator
24 which is manufactured in calendar year 2008 or
25 2009, and consumes at least 23 percent but no

1 more than 24.9 percent less kilowatt hours per
2 year than the 2001 energy conservation stand-
3 ards,

4 “(C) \$100 in the case of a refrigerator
5 which is manufactured in calendar year 2008,
6 2009, or 2010, and consumes at least 25 per-
7 cent but not more than 29.9 percent less kilo-
8 watt hours per year than the 2001 energy con-
9 servation standards, and

10 “(D) \$200 in the case of a refrigerator
11 manufactured in calendar year 2008, 2009, or
12 2010 and which consumes at least 30 percent
13 less energy than the 2001 energy conservation
14 standards.”.

15 (b) ELIGIBLE PRODUCTION.—

16 (1) SIMILAR TREATMENT FOR ALL APPLI-
17 ANCES.—Subsection (c) of section 45M (relating to
18 eligible production) is amended—

19 (A) by striking paragraph (2),

20 (B) by striking “(1) IN GENERAL” and all
21 that follows through “the eligible” and inserting
22 “The eligible”, and

23 (C) by moving the text of such subsection
24 in line with the subsection heading and redesign-

1 nating subparagraphs (A) and (B) as para-
2 graphs (1) and (2), respectively.

3 (2) MODIFICATION OF BASE PERIOD.—Para-
4 graph (2) of section 45M(c), as amended by para-
5 graph (1) of this section, is amended by striking “3-
6 calendar year” and inserting “2-calendar year”.

7 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—
8 Subsection (d) of section 45M (defining types of energy
9 efficient appliances) is amended to read as follows:

10 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—
11 For purposes of this section, the types of energy efficient
12 appliances are—

13 “(1) dishwashers described in subsection (b)(1),

14 “(2) clothes washers described in subsection
15 (b)(2), and

16 “(3) refrigerators described in subsection
17 (b)(3).”

18 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

19 (1) INCREASE IN LIMIT.—Paragraph (1) of sec-
20 tion 45M(e) (relating to aggregate credit amount al-
21 lowed) is amended to read as follows:

22 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

23 The aggregate amount of credit allowed under sub-
24 section (a) with respect to a taxpayer for any tax-
25 able year shall not exceed \$75,000,000 reduced by

1 the amount of the credit allowed under subsection
2 (a) to the taxpayer (or any predecessor) for all prior
3 taxable years beginning after December 31, 2007.”.

4 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
5 AND CLOTHES WASHERS.—Paragraph (2) of section
6 45M(e) is amended to read as follows:

7 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-
8 ERATORS AND CLOTHES WASHERS.—Refrigerators
9 described in subsection (b)(3)(D) and clothes wash-
10 ers described in subsection (b)(2)(D) shall not be
11 taken into account under paragraph (1).”.

12 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

13 (1) IN GENERAL.—Paragraph (1) of section
14 45M(f) (defining qualified energy efficient appliance)
15 is amended to read as follows:

16 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
17 ANCE.—The term ‘qualified energy efficient appli-
18 ance’ means—

19 “(A) any dishwasher described in sub-
20 section (b)(1),

21 “(B) any clothes washer described in sub-
22 section (b)(2), and

23 “(C) any refrigerator described in sub-
24 section (b)(3).”.

1 (2) CLOTHES WASHER.—Section 45M(f)(3) (de-
2 fining clothes washer) is amended by inserting
3 “commercial” before “residential” the second place
4 it appears.

5 (3) TOP-LOADING CLOTHES WASHER.—Sub-
6 section (f) of section 45M (relating to definitions) is
7 amended by redesignating paragraphs (4), (5), (6),
8 and (7) as paragraphs (5), (6), (7), and (8), respec-
9 tively, and by inserting after paragraph (3) the fol-
10 lowing new paragraph:

11 “(4) TOP-LOADING CLOTHES WASHER.—The
12 term ‘top-loading clothes washer’ means a clothes
13 washer which has the clothes container compartment
14 access located on the top of the machine and which
15 operates on a vertical axis.”.

16 (4) REPLACEMENT OF ENERGY FACTOR.—Sec-
17 tion 45M(f)(7), as redesignated by paragraph (3), is
18 amended to read as follows:

19 “(7) MODIFIED ENERGY FACTOR.—The term
20 ‘modified energy factor’ means the modified energy
21 factor established by the Department of Energy for
22 compliance with the Federal energy conservation
23 standard.”.

24 (5) GALLONS PER CYCLE; WATER CONSUMP-
25 TION FACTOR.—Section 45M(f) (relating to defini-

1 tions) is amended by adding at the end the fol-
2 lowing:

3 “(9) GALLONS PER CYCLE.—The term ‘gallons
4 per cycle’ means, with respect to a dishwasher, the
5 amount of water, expressed in gallons, required to
6 complete a normal cycle of a dishwasher.

7 “(10) WATER CONSUMPTION FACTOR.—The
8 term ‘water consumption factor’ means, with respect
9 to a clothes washer, the quotient of the total weight-
10 ed per-cycle water consumption divided by the cubic
11 foot (or liter) capacity of the clothes washer.”.

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to appliances produced after De-
14 cember 31, 2007.

15 **SEC. 1546. SEVEN-YEAR APPLICABLE RECOVERY PERIOD**
16 **FOR DEPRECIATION OF QUALIFIED ENERGY**
17 **MANAGEMENT DEVICES.**

18 (a) IN GENERAL.—Section 168(e)(3)(C) (relating to
19 7-year property), as amended by this Act, is amended by
20 striking “and” at the end of clause (v), by redesignating
21 clause (vi) as clause (vii), and by inserting after clause
22 (v) the following new clause:

23 “(vi) any qualified energy manage-
24 ment device, and”.

1 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-
2 MENT DEVICE.—Section 168(i) (relating to definitions
3 and special rules) is amended by inserting at the end the
4 following new paragraph:

5 “(18) QUALIFIED ENERGY MANAGEMENT DE-
6 VICE.—

7 “(A) IN GENERAL.—The term ‘qualified
8 energy management device’ means any energy
9 management device which is installed on real
10 property of a customer of the taxpayer and is
11 placed in service by a taxpayer who—

12 “(i) is a supplier of electric energy or
13 a provider of electric energy services, and

14 “(ii) provides all commercial and resi-
15 dential customers of such supplier or pro-
16 vider with net metering upon the request
17 of such customer.

18 “(B) ENERGY MANAGEMENT DEVICE.—
19 For purposes of subparagraph (A), the term
20 ‘energy management device’ means any time-
21 based meter and related communication equip-
22 ment which is capable of being used by the tax-
23 payer as part of a system that—

24 “(i) measures and records electricity
25 usage data on a time-differentiated basis

1 in at least 24 separate time segments per
2 day,

3 “(ii) provides for the exchange of in-
4 formation between supplier or provider and
5 the customer’s energy management device
6 in support of time-based rates or other
7 forms of demand response, and

8 “(iii) provides data to such supplier or
9 provider so that the supplier or provider
10 can provide energy usage information to
11 customers electronically.

12 “(C) NET METERING.—For purposes of
13 subparagraph (A), the term ‘net metering’
14 means allowing customers a credit for providing
15 electricity to the supplier or provider.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to property placed in service after
18 December 31, 2007.

19 **Subtitle D—Other Provisions**

20 **PART I—FORESTRY PROVISIONS**

21 **SEC. 1551. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

22 (a) IN GENERAL.—Part I of subchapter P of chapter
23 1 is amended by adding at the end the following new sec-
24 tion:

1 **“SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

2 “(a) IN GENERAL.—In the case of a taxpayer which
3 elects the application of this section for a taxable year,
4 there shall be allowed a deduction against gross income
5 in an amount equal to 60 percent of the lesser of—

6 “ (1) the taxpayer’s qualified timber gain for
7 such year, or

8 “ (2) the taxpayer’s net capital gain for such
9 year.

10 “(b) QUALIFIED TIMBER GAIN.—For purposes of
11 this section, the term ‘qualified timber gain’ means, with
12 respect to any taxpayer for any taxable year, the excess
13 (if any) of—

14 “ (1) the sum of the taxpayer’s gains described
15 in subsections (a) and (b) of section 631 for such
16 year, over

17 “ (2) the sum of the taxpayer’s losses described
18 in such subsections for such year.

19 “(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—

20 “ (1) In the case of any qualified timber gain of
21 a pass-thru entity (as defined in section 1(h)(10))
22 other than a real estate investment trust, the elec-
23 tion under this section shall be made separately by
24 each taxpayer subject to tax on such gain.

25 “ (2) In the case of any qualified timber gain of
26 a real estate investment trust, the election under

1 this section shall be made by the real estate invest-
2 ment trust.

3 “(d) ELECTION.—An election under this section may
4 be made only with respect to the first taxable year begin-
5 ning after the date of the enactment of this section.”.

6 (b) COORDINATION WITH MAXIMUM CAPITAL GAINS
7 RATES.—

8 (1) TAXPAYERS OTHER THAN CORPORA-
9 TIONS.—Paragraph (2) of section 1(h) is amended
10 to read as follows:

11 “(2) REDUCTION OF NET CAPITAL GAIN.—For
12 purposes of this subsection, the net capital gain for
13 any taxable year shall be reduced (but not below
14 zero) by the sum of—

15 “(A) the amount which the taxpayer takes
16 into account as investment income under sec-
17 tion 163(d)(4)(B)(iii), and

18 “(B) in the case of a taxable year with re-
19 spect to which an election is in effect under sec-
20 tion 1203, the taxpayer’s qualified timber gain
21 (as defined in section 1203(b)).”.

22 (2) CORPORATIONS.—Section 1201 is amended
23 by redesignating subsection (b) as subsection (c) and
24 inserting after subsection (a) the following new sub-
25 section:

1 “(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO
2 ACCOUNT.—For purposes of this section, in the case of
3 a corporation with respect to which an election is in effect
4 under section 1203, the net capital gain for any taxable
5 year shall be reduced (but not below zero) by the corpora-
6 tion’s qualified timber gain (as defined in section
7 1203(b)).”.

8 (c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL
9 ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
10 of section 62 is amended by inserting before the last sentence
11 the following new paragraph:

12 “(22) QUALIFIED TIMBER GAINS.—The deduction
13 allowed by section 1203.”.

14 (d) DEDUCTION ALLOWED IN COMPUTING ADJUSTED
15 CURRENT EARNINGS.—Subparagraph (C) of section
16 56(g)(4) is amended by adding at the end the following
17 new clause:

18 “(vii) DEDUCTION FOR QUALIFIED
19 TIMBER GAIN.—Clause (i) shall not apply
20 to any deduction allowed under section
21 1203.”.

22 (e) DEDUCTION ALLOWED IN COMPUTING TAXABLE
23 INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Sub-
24 paragraph (C) of section 641(c)(2) is amended by inserting
25 after clause (iv) the following new clause:

1 “(v) The deduction allowed under sec-
2 tion 1203.”.

3 (f) TREATMENT OF QUALIFIED TIMBER GAIN OF
4 REAL ESTATE INVESTMENT TRUSTS.—Paragraph (3) of
5 section 857(b) is amended by inserting after subparagraph
6 (F) the following new subparagraph:

7 “(G) TREATMENT OF QUALIFIED TIMBER
8 GAIN.—For purposes of this part, in the case of
9 a real estate investment trust with respect to
10 which an election is in effect under section
11 1203—

12 “(i) REDUCTION OF NET CAPITAL
13 GAIN.—The net capital gain of the real es-
14 tate investment trust for any taxable year
15 shall be reduced (but not below zero) by
16 the real estate investment trust’s qualified
17 timber gain (as defined in section
18 1203(b)).

19 “(ii) ADJUSTMENT TO SHARE-
20 HOLDER’S BASIS ATTRIBUTABLE TO DE-
21 Duction FOR QUALIFIED TIMBER
22 GAINS.—

23 “(I) IN GENERAL.—The adjusted
24 basis of shares in the hands of the
25 shareholder shall be increased by the

1 amount of the deduction allowable
2 under section 1203(a) as provided in
3 subclauses (II) and (III).

4 “(II) ALLOCATION OF BASIS IN-
5 CREASE FOR DISTRIBUTIONS MADE
6 DURING TAXABLE YEAR.—For any
7 taxable year of a real estate invest-
8 ment trust for which an election is in
9 effect under section 1203, in the case
10 of a distribution made with respect to
11 shares during such taxable year of
12 amounts attributable to the deduction
13 allowable under section 1203(a), the
14 adjusted basis of such shares shall be
15 increased by the amount of such dis-
16 tributions.

17 “(III) ALLOCATION OF EX-
18 CESS.—If the deduction allowable
19 under section 1203(a) for a taxable
20 year exceeds the amount of distribu-
21 tions described in subclause (II), the
22 excess shall be allocated to every
23 shareholder of the real estate invest-
24 ment trust at the close of the trust’s
25 taxable year in the same manner as if

1 a distribution of such excess were
2 made with respect to such shares.

3 “(IV) DESIGNATIONS.—To the
4 extent provided in regulations, a real
5 estate investment trust shall designate
6 the amounts described in subclauses
7 (II) and (III) in a manner similar to
8 the designations provided with respect
9 to capital gains described in subpara-
10 graphs (C) and (D).

11 “(V) DEFINITIONS.—As used in
12 this subparagraph, the terms ‘share’
13 and ‘shareholder’ shall include bene-
14 ficial interests and holders of bene-
15 ficial interests, respectively.

16 “(iii) EARNINGS AND PROFITS DEDUC-
17 TION FOR QUALIFIED TIMBER GAINS.—The
18 deduction allowable under section 1203(a)
19 for a taxable year shall be allowed as a de-
20 duction in computing the earnings and
21 profits of the real estate investment trust
22 for such taxable year. The earnings and
23 profits of any such shareholder which is a
24 corporation shall be appropriately adjusted

1 in accordance with regulations prescribed
2 by the Secretary.”.

3 (g) LOSS ATTRIBUTABLE TO BASIS ADJUSTMENT
4 FOR DEDUCTION FOR QUALIFIED TIMBER GAIN OF REAL
5 ESTATE INVESTMENT TRUSTS.—

6 (1) Section 857(b)(8) is amended by redesignig-
7 nating subparagraphs (B) and (C) as subparagraphs
8 (C) and (D), respectively, and by inserting after sub-
9 paragraph (A) the following new subparagraph:

10 “(B) LOSS ATTRIBUTABLE TO BASIS AD-
11 JUSTMENT FOR DEDUCTION FOR QUALIFIED
12 TIMBER GAIN.—If—

13 “(i) a shareholder of a real estate in-
14 vestment trust receives a basis adjustment
15 provided under subsection (b)(3)(G)(ii),
16 and

17 “(ii) the taxpayer has held such share
18 or interest for 6 months or less,

19 then any loss on the sale or exchange of such
20 share or interest shall, to the extent of the
21 amount described in clause (i), be disallowed.”.

22 (2) Subparagraph (D) of section 857(b)(8), as
23 redesignated by paragraph (1), is amended by strik-
24 ing “subparagraph (A)” and inserting “subpara-
25 graphs (A) and (B)”.

1 (h) CONFORMING AMENDMENTS.—

2 (1) Subparagraph (B) of section 172(d)(2) is
3 amended to read as follows:

4 “(B) the exclusion under section 1202, and
5 the deduction under section 1203, shall not be
6 allowed.”.

7 (2) Paragraph (4) of section 642(c) is amended
8 by striking the first sentence and inserting “To the
9 extent that the amount otherwise allowable as a de-
10 duction under this subsection consists of gain de-
11 scribed in section 1202(a) or qualified timber gain
12 (as defined in section 1203(b)), proper adjustment
13 shall be made for any exclusion allowable to the es-
14 tate or trust under section 1202 and for any deduc-
15 tion allowable to the estate or trust under section
16 1203.”

17 (3) Paragraph (3) of section 643(a) is amended
18 by striking the last sentence and inserting “The ex-
19 clusion under section 1202 and the deduction under
20 section 1203 shall not be taken into account.”.

21 (4) Subparagraph (C) of section 643(a)(6) is
22 amended to read as follows:

23 “(C) Paragraph (3) shall not apply to a
24 foreign trust. In the case of such a trust—

1 “(i) there shall be included gains from
2 the sale or exchange of capital assets, re-
3 duced by losses from such sales or ex-
4 changes to the extent such losses do not
5 exceed gains from such sales or exchanges,
6 and

7 “(ii) the deduction under section 1203
8 shall not be taken into account.”.

9 (5) Paragraph (4) of section 691(c) is amended
10 by inserting “1203,” after “1202,”.

11 (6) Paragraph (2) of section 871(a) is amended
12 by inserting “or 1203,” after “1202,”.

13 (7) The table of sections for part I of sub-
14 chapter P of chapter 1 is amended by adding at the
15 end the following new item:

“Sec. 1203. Deduction for qualified timber gain.”.

16 (i) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

19 **SEC. 1552. EXCISE TAX NOT APPLICABLE TO SECTION 1203**

20 **DEDUCTION OF REAL ESTATE INVESTMENT**
21 **TRUSTS.**

22 (a) IN GENERAL.—

23 (1) ORDINARY INCOME.—Subparagraph (B) of
24 section 4981(e)(1) is amended to read as follows:

25 “(B) by not taking into account—

1 “(i) any gain or loss from the sale or
2 exchange of capital assets (determined
3 without regard to any reduction that would
4 be applied for purposes of section
5 857(b)(3)(G)(i)), and

6 “(ii) any deduction allowable under
7 section 1203, and”.

8 (2) CAPITAL GAIN NET INCOME.—Section
9 4981(e)(2) is amended by adding at the end the fol-
10 lowing new subparagraph:

11 “(D) QUALIFIED TIMBER GAIN.—The
12 amount determined under subparagraph (A)
13 shall be determined without regard to any re-
14 duction that would be applied for purposes of
15 section 857(b)(3)(G)(i) but shall be reduced for
16 any deduction allowable under section 1203 for
17 such calendar year.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 the date of the enactment of this Act.

21 **SEC. 1553. TIMBER REIT MODERNIZATION.**

22 (a) IN GENERAL.—Section 856(c)(5) is amended by
23 adding after subparagraph (G) the following new subpara-
24 graph:

25 “(H) TREATMENT OF TIMBER GAINS.—

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1 “(i) IN GENERAL.—Gain from the sale
2 of real property described in paragraph
3 (2)(D) and (3)(C) shall include gain which
4 is—

5 “(I) recognized by an election
6 under section 631(a) from timber
7 owned by the real estate investment
8 trust, the cutting of which is provided
9 by a taxable REIT subsidiary of the
10 real estate investment trust;

11 “(II) recognized under section
12 631(b); or

13 “(III) income which would con-
14 stitute gain under subclause (I) or
15 (II) but for the failure to meet the 1-
16 year holding period requirement.

17 “(ii) SPECIAL RULES.—

18 “(I) For purposes of this subtitle,
19 cut timber, the gain of which is recog-
20 nized by a real estate investment trust
21 pursuant to an election under section
22 631(a) described in clause (i)(I) or so
23 much of clause (i)(III) as relates to
24 clause (i)(I), shall be deemed to be
25 sold to the taxable REIT subsidiary of

1 the real estate investment trust on the
2 first day of the taxable year.

3 “(II) For purposes of this sub-
4 title, income described in this sub-
5 paragraph shall not be treated as gain
6 from the sale of property described in
7 section 1221(a)(1).

8 “(iii) TERMINATION.—This subpara-
9 graph shall not apply to dispositions after
10 the termination date.”.

11 (b) TERMINATION DATE.—Subsection (c) of section
12 856 is amended by adding at the end the following new
13 paragraph:

14 “(8) TERMINATION DATE.—For purposes of
15 this subsection, the term ‘termination date’ means
16 the last day of the first taxable year beginning after
17 the date of the enactment of this paragraph.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall apply to dispositions in taxable years
20 beginning after the date of the enactment of this Act.

21 **SEC. 1554. MINERAL ROYALTY INCOME QUALIFYING IN-**
22 **COME FOR TIMBER REITS.**

23 (a) IN GENERAL.—Section 856(c)(2) is amended by
24 striking “and” at the end of subparagraph (G), by insert-

1 ing “and” at the end of subparagraph (H), and by adding
2 after subparagraph (H) the following new subparagraph:

3 “(I) mineral royalty income earned in the
4 first taxable year beginning after the date of
5 the enactment of this subparagraph from real
6 property owned by a timber real estate invest-
7 ment trust held, or once held, in connection
8 with the trade or business of producing timber
9 by such real estate investment trust;”.

10 (b) **TIMBER REAL ESTATE INVESTMENT TRUST.**—
11 Section 856(c)(5), as amended by this Act, is amended
12 by adding after subparagraph (H) the following new sub-
13 paragraph:

14 “(I) **TIMBER REAL ESTATE INVESTMENT**
15 **TRUST.**—The term ‘timber real estate invest-
16 ment trust’ means a real estate investment
17 trust in which more than 50 percent in value of
18 its total assets consists of real property held in
19 connection with the trade or business of pro-
20 ducing timber.”.

21 (c) **EFFECTIVE DATE.**—The amendments by this sec-
22 tion shall apply to taxable years beginning after the date
23 of the enactment of this Act.

1 **SEC. 1555. MODIFICATION OF TAXABLE REIT SUBSIDIARY**

2 **ASSET TEST FOR TIMBER REITS.**

3 (a) IN GENERAL.—Section 856(c)(4)(B)(ii) is
4 amended by inserting “(in the case of a quarter which
5 closes on or before the termination date, 25 percent in
6 the case of a timber real estate investment trust)” after
7 “not more than 20 percent of the value of its total assets
8 is represented by securities of one or more taxable REIT
9 subsidiaries”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **SEC. 1556. SAFE HARBOR FOR TIMBER PROPERTY.**

14 (a) IN GENERAL.—Section 857(b)(6) (relating to in-
15 come from prohibited transactions) is amended by adding
16 at the end the following new subparagraph:

17 “(G) SPECIAL RULES FOR SALES TO
18 QUALIFIED ORGANIZATIONS.—

19 “(i) IN GENERAL.—In the case of sale
20 of a real estate asset (as defined in section
21 856(c)(5)(B)) to a qualified organization
22 (as defined in section 170(h)(3)) exclu-
23 sively for conservation purposes (within the
24 meaning of section 170(h)(1)(C)), subpara-
25 graph (D) shall be applied—

1 “(I) by substituting ‘2 years’ for
2 ‘4 years’ in clause (i), and

3 “(II) by substituting ‘2-year pe-
4 riod’ for ‘4-year period’ in clauses (ii)
5 and (iii).

6 “(ii) TERMINATION.—This subpara-
7 graph shall not apply to sales after the ter-
8 mination date.”.

9 (b) PROHIBITED TRANSACTIONS.—Section
10 857(b)(6)(D)(v) is amended by inserting “or, in the case
11 of a sale on or before the termination date, a taxable
12 REIT subsidiary” after “independent contractor (as de-
13 fined in section 856(d)(3)) from whom the trust itself does
14 not derive or receive any income”.

15 (c) SALES THAT ARE NOT PROHIBITED TRANS-
16 ACTIONS.—Section 857(b)(6), as amended by subsection
17 (a), is amended by adding at the end the following new
18 subparagraph:

19 “(H) SALES OF PROPERTY THAT ARE NOT
20 A PROHIBITED TRANSACTION.—In the case of a
21 sale on or before the termination date, the sale
22 of property which is not a prohibited trans-
23 action through application of subparagraph (D)
24 shall be considered property held for investment
25 or for use in a trade or business and not prop-

erty described in section 1221(a)(1) for all purposes of this subtitle.”.

(d) TERMINATION DATE.—Section 857(b)(6), as amended by subsections (a) and (c), is amended by adding at the end the following new subparagraph:

“(I) TERMINATION DATE.—For purposes of this paragraph, the term ‘termination date’ means the last day of the first taxable year beginning after the date of the enactment of this subparagraph.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

PART II—EXXON VALDEZ

SEC. 1557. INCOME AVERAGING FOR AMOUNTS RECEIVED

IN CONNECTION WITH THE EXXON VALDEZ

LITIGATION.

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—For purposes of section 1301 of the Internal Revenue Code of 1986—

(1) any qualified taxpayer who receives any qualified settlement income in any taxable year shall be treated as engaged in a fishing business (determined without regard to the commercial nature of the business), and

1 (2) such qualified settlement income shall be
2 treated as income attributable to such a fishing busi-
3 ness for such taxable year.

4 (b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RE-
5 TIREMENT ACCOUNTS.—

6 (1) IN GENERAL.—Any qualified taxpayer who
7 receives qualified settlement income during the tax-
8 able year may, at any time before the end of the tax-
9 able year in which such income was received, make
10 one or more contributions to an eligible retirement
11 plan of which such qualified taxpayer is a bene-
12 ficiary in an aggregate amount not to exceed the
13 lesser of—

14 (A) \$100,000 (reduced by the amount of
15 qualified settlement income contributed to an
16 eligible retirement plan in prior taxable years
17 pursuant to this subsection), or

18 (B) the amount of qualified settlement in-
19 come received by the individual during the tax-
20 able year.

21 (2) TIME WHEN CONTRIBUTIONS DEEMED
22 MADE.—For purposes of paragraph (1), a qualified
23 taxpayer shall be deemed to have made a contribu-
24 tion to an eligible retirement plan on the last day of
25 the taxable year in which such income is received if

1 the contribution is made on account of such taxable
2 year and is made not later than the time prescribed
3 by law for filing the return for such taxable year
4 (not including extensions thereof).

5 (3) TREATMENT OF CONTRIBUTIONS TO ELIGI-
6 BLE RETIREMENT PLANS.—For purposes of the In-
7 ternal Revenue Code of 1986, if a contribution is
8 made pursuant to paragraph (1) with respect to
9 qualified settlement income, then—

10 (A) except as provided in paragraph (4)—

11 (i) to the extent of such contribution,
12 the qualified settlement income shall not
13 be included in taxable income, and

14 (ii) for purposes of section 72 of such
15 Code, such contribution shall not be con-
16 sidered to be investment in the contract,

17 (B) the qualified taxpayer shall, to the ex-
18 tent of the amount of the contribution, be treat-
19 ed—

20 (i) as having received the qualified
21 settlement income—

22 (I) in the case of a contribution
23 to an individual retirement plan (as
24 defined under section 7701(a)(37) of
25 such Code), in a distribution described

1 in section 408(d)(3) of such Code,
2 and

3 (II) in the case of any other eligi-
4 ble retirement plan, in an eligible roll-
5 over distribution (as defined under
6 section 402(f)(2) of such Code), and

7 (ii) as having transferred the amount
8 to the eligible retirement plan in a direct
9 trustee to trustee transfer within 60 days
10 of the distribution,

11 (C) section 408(d)(3)(B) of the Internal
12 Revenue Code of 1986 shall not apply with re-
13 spect to amounts treated as a rollover under
14 this paragraph, and

15 (D) section 408A(c)(3)(B) of the Internal
16 Revenue Code of 1986 shall not apply with re-
17 spect to amounts contributed to a Roth IRA (as
18 defined under section 408A(b) of such Code) or
19 a designated Roth contribution to an applicable
20 retirement plan (within the meaning of section
21 402A of such Code) under this paragraph.

22 (4) SPECIAL RULE FOR ROTH IRAS AND ROTH
23 401(k)s.—For purposes of the Internal Revenue
24 Code of 1986, if a contribution is made pursuant to
25 paragraph (1) with respect to qualified settlement

1 income to a Roth IRA (as defined under section
2 408A(b) of such Code) or as a designated Roth con-
3 tribution to an applicable retirement plan (within
4 the meaning of section 402A of such Code), then—

5 (A) the qualified settlement income shall
6 be includible in taxable income, and

7 (B) for purposes of section 72 of such
8 Code, such contribution shall be considered to
9 be investment in the contract.

10 (5) ELIGIBLE RETIREMENT PLAN.—For pur-
11 pose of this subsection, the term “eligible retirement
12 plan” has the meaning given such term under sec-
13 tion 402(c)(8)(B) of the Internal Revenue Code of
14 1986.

15 (c) TREATMENT OF QUALIFIED SETTLEMENT IN-
16 COME UNDER EMPLOYMENT TAXES.—

17 (1) SECA.—For purposes of chapter 2 of the
18 Internal Revenue Code of 1986 and section 211 of
19 the Social Security Act, no portion of qualified set-
20 tlement income received by a qualified taxpayer shall
21 be treated as self-employment income.

22 (2) FICA.—For purposes of chapter 21 of the
23 Internal Revenue Code of 1986 and section 209 of
24 the Social Security Act, no portion of qualified set-

1 tlement income received by a qualified taxpayer shall
2 be treated as wages.

3 (d) QUALIFIED TAXPAYER.—For purposes of this
4 section, the term “qualified taxpayer” means—

5 (1) any individual who is a plaintiff in the civil
6 action *In re Exxon Valdez*, No. 89–095–CV (HRH)
7 (Consolidated) (D. Alaska); or

8 (2) any individual who is a beneficiary of the
9 estate of such a plaintiff who—

10 (A) acquired the right to receive qualified
11 settlement income from that plaintiff; and

12 (B) was the spouse or an immediate rel-
13 ative of that plaintiff.

14 (e) QUALIFIED SETTLEMENT INCOME.—For pur-
15 poses of this section, the term “qualified settlement in-
16 come” means any interest and punitive damage awards
17 which are—

18 (1) otherwise includible in taxable income, and

19 (2) received (whether as lump sums or periodic
20 payments) in connection with the civil action *In re*
21 *Exxon Valdez*, No. 89–095–CV (HRH) (Consoli-
22 dated) (D. Alaska) (whether pre- or post-judgment
23 and whether related to a settlement or judgment).

1 **PART III—ELECTRIC TRANSMISSION FACILITIES**

2 **SEC. 1558. TAX-EXEMPT FINANCING OF CERTAIN ELECTRIC**
3 **TRANSMISSION FACILITIES.**

4 (a) IN GENERAL.—Subsection (a) of section 142 is
5 amended—

6 (1) by striking “or” at the end of paragraph
7 (14),

8 (2) by striking the period at the end of para-
9 graph (15) and inserting “, or”, and

10 (3) by inserting at the end the following new
11 paragraph:

12 “(16) qualified electric transmission facilities.”.

13 (b) DEFINITION.—Section 142 is amended by insert-
14 ing at the end the following new subsection:

15 “(n) QUALIFIED ELECTRIC TRANSMISSION FACILI-
16 TIES.—

17 “(1) IN GENERAL.—For purposes of subsection

18 (a)(16), the term ‘qualified electric transmission fa-
19 cility’ means any electric transmission facility which
20 is owned by—

21 “(A) a State or political subdivision of a
22 State, or any agency, authority, or instrumen-
23 tality of any of the foregoing, providing electric
24 service, directly or indirectly to the public, or

1 “(B) a State or political subdivision of a
2 State expressly authorized under State law to
3 finance and own electric transmission facilities.

4 “(2) TERMINATION.—Subsection (a)(16) shall
5 not apply with respect to any bond issued after De-
6 cember 31, 2012.”.

7 (c) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to bonds issued after December
9 31, 2009.

10 **Subtitle E—Revenue Provisions**

11 **SEC. 1561. DENIAL OF DEDUCTION FOR MAJOR INTE-** 12 **GRATED OIL COMPANIES FOR INCOME AT-** 13 **TRIBUTABLE TO DOMESTIC PRODUCTION OF** 14 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

15 (a) IN GENERAL.—Subparagraph (B) of section
16 199(c)(4) (relating to exceptions) is amended by striking
17 “or” at the end of clause (ii), by striking the period at
18 the end of clause (iii) and inserting “, or”, and by insert-
19 ing after clause (iii) the following new clause:

20 “(iv) in the case of any major inte-
21 grated oil company (as defined in section
22 167(h)(5)(B)), the production, refining,
23 processing, transportation, or distribution
24 of oil, gas, or any primary product thereof

1 during any taxable year described in sec-
2 tion 167(h)(5)(B).”.

3 (b) PRIMARY PRODUCT.—Section 199(c)(4)(B) is
4 amended by adding at the end the following flush sen-
5 tence:

6 “For purposes of clause (iv), the term ‘primary
7 product’ has the same meaning as when used in
8 section 927(a)(2)(C), as in effect before its re-
9 peal.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2007.

13 **SEC. 1562. ELIMINATION OF THE DIFFERENT TREATMENT**
14 **OF FOREIGN OIL AND GAS EXTRACTION IN-**
15 **COME AND FOREIGN OIL RELATED INCOME**
16 **FOR PURPOSES OF THE FOREIGN TAX CRED-**
17 **IT.**

18 (a) IN GENERAL.—Subsections (a) and (b) of section
19 907 (relating to special rules in case of foreign oil and
20 gas income) are amended to read as follows:

21 “(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN
22 TAX UNDER SECTION 901.—In applying section 901, the
23 amount of any foreign oil and gas taxes paid or accrued
24 (or deemed to have been paid) during the taxable year
25 which would (but for this subsection) be taken into ac-

1 count for purposes of section 901 shall be reduced by the
2 amount (if any) by which the amount of such taxes ex-
3 ceeds the product of—

4 “(1) the amount of the combined foreign oil
5 and gas income for the taxable year,

6 “(2) multiplied by—

7 “(A) in the case of a corporation, the per-
8 centage which is equal to the highest rate of tax
9 specified under section 11(b), or

10 “(B) in the case of an individual, a frac-
11 tion the numerator of which is the tax against
12 which the credit under section 901(a) is taken
13 and the denominator of which is the taxpayer’s
14 entire taxable income.

15 “(b) COMBINED FOREIGN OIL AND GAS INCOME;
16 FOREIGN OIL AND GAS TAXES.—For purposes of this sec-
17 tion—

18 “(1) COMBINED FOREIGN OIL AND GAS IN-
19 COME.—The term ‘combined foreign oil and gas in-
20 come’ means, with respect to any taxable year, the
21 sum of—

22 “(A) foreign oil and gas extraction income,
23 and

24 “(B) foreign oil related income.

1 “(2) FOREIGN OIL AND GAS TAXES.—The term
2 ‘foreign oil and gas taxes’ means, with respect to
3 any taxable year, the sum of—

4 “(A) oil and gas extraction taxes, and

5 “(B) any income, war profits, and excess
6 profits taxes paid or accrued (or deemed to
7 have been paid or accrued under section 902 or
8 960) during the taxable year with respect to
9 foreign oil related income (determined without
10 regard to subsection (c)(4)) or loss which would
11 be taken into account for purposes of section
12 901 without regard to this section.”.

13 (b) RECAPTURE OF FOREIGN OIL AND GAS
14 LOSSES.—Paragraph (4) of section 907(c) (relating to re-
15 capture of foreign oil and gas extraction losses by re-
16 characterizing later extraction income) is amended to read
17 as follows:

18 “(4) RECAPTURE OF FOREIGN OIL AND GAS
19 LOSSES BY RECHARACTERIZING LATER COMBINED
20 FOREIGN OIL AND GAS INCOME.—

21 “(A) IN GENERAL.—The combined foreign
22 oil and gas income of a taxpayer for a taxable
23 year (determined without regard to this para-
24 graph) shall be reduced—

1 “(i) first by the amount determined
2 under subparagraph (B), and

3 “(ii) then by the amount determined
4 under subparagraph (C).

5 The aggregate amount of such reductions shall
6 be treated as income (from sources without the
7 United States) which is not combined foreign
8 oil and gas income.

9 “(B) REDUCTION FOR PRE-2008 FOREIGN
10 OIL EXTRACTION LOSSES.—The reduction
11 under this paragraph shall be equal to the less-
12 er of—

13 “(i) the foreign oil and gas extraction
14 income of the taxpayer for the taxable year
15 (determined without regard to this para-
16 graph), or

17 “(ii) the excess of—

18 “(I) the aggregate amount of for-
19 eign oil extraction losses for preceding
20 taxable years beginning after Decem-
21 ber 31, 1982, and before January 1,
22 2008, over

23 “(II) so much of such aggregate
24 amount as was recharacterized under
25 this paragraph (as in effect before

1 and after the date of the enactment of
2 the Clean Renewable Energy and
3 Conservation Tax Act of 2007) for
4 preceding taxable years beginning
5 after December 31, 1982.

6 “(C) REDUCTION FOR POST-2007 FOREIGN
7 OIL AND GAS LOSSES.—The reduction under
8 this paragraph shall be equal to the lesser of—

9 “(i) the combined foreign oil and gas
10 income of the taxpayer for the taxable year
11 (determined without regard to this para-
12 graph), reduced by an amount equal to the
13 reduction under subparagraph (A) for the
14 taxable year, or

15 “(ii) the excess of—

16 “(I) the aggregate amount of for-
17 eign oil and gas losses for preceding
18 taxable years beginning after Decem-
19 ber 31, 2007, over

20 “(II) so much of such aggregate
21 amount as was recharacterized under
22 this paragraph for preceding taxable
23 years beginning after December 31,
24 2007.

1 “(D) FOREIGN OIL AND GAS LOSS DE-
2 FINED.—

3 “(i) IN GENERAL.—For purposes of
4 this paragraph, the term ‘foreign oil and
5 gas loss’ means the amount by which—

6 “(I) the gross income for the tax-
7 able year from sources without the
8 United States and its possessions
9 (whether or not the taxpayer chooses
10 the benefits of this subpart for such
11 taxable year) taken into account in
12 determining the combined foreign oil
13 and gas income for such year, is ex-
14 ceeded by

15 “(II) the sum of the deductions
16 properly apportioned or allocated
17 thereto.

18 “(ii) NET OPERATING LOSS DEDUC-
19 TION NOT TAKEN INTO ACCOUNT.—For
20 purposes of clause (i), the net operating
21 loss deduction allowable for the taxable
22 year under section 172(a) shall not be
23 taken into account.

24 “(iii) EXPROPRIATION AND CASUALTY
25 LOSSES NOT TAKEN INTO ACCOUNT.—For

1 purposes of clause (i), there shall not be
2 taken into account—

3 “(I) any foreign expropriation
4 loss (as defined in section 172(h) (as
5 in effect on the day before the date of
6 the enactment of the Revenue Rec-
7 onciliation Act of 1990)) for the tax-
8 able year, or

9 “(II) any loss for the taxable
10 year which arises from fire, storm,
11 shipwreck, or other casualty, or from
12 theft,

13 to the extent such loss is not compensated
14 for by insurance or otherwise.

15 “(iv) FOREIGN OIL EXTRACTION
16 LOSS.—For purposes of subparagraph
17 (B)(ii)(I), foreign oil extraction losses shall
18 be determined under this paragraph as in
19 effect on the day before the date of the en-
20 actment of the Clean Renewable Energy
21 and Conservation Tax Act of 2007.”.

22 (c) CARRYBACK AND CARRYOVER OF DISALLOWED
23 CREDITS.—Section 907(f) (relating to carryback and car-
24 ryover of disallowed credits) is amended—

1 (1) by striking “oil and gas extraction taxes”
2 each place it appears and inserting “foreign oil and
3 gas taxes”, and

4 (2) by adding at the end the following new
5 paragraph:

6 “(4) TRANSITION RULES FOR PRE-2008 AND
7 2008 DISALLOWED CREDITS.—

8 “(A) PRE-2008 CREDITS.—In the case of
9 any unused credit year beginning before Janu-
10 ary 1, 2008, this subsection shall be applied to
11 any unused oil and gas extraction taxes carried
12 from such unused credit year to a year begin-
13 ning after December 31, 2007—

14 “(i) by substituting ‘oil and gas ex-
15 traction taxes’ for ‘foreign oil and gas
16 taxes’ each place it appears in paragraphs
17 (1), (2), and (3), and

18 “(ii) by computing, for purposes of
19 paragraph (2)(A), the limitation under
20 subparagraph (A) for the year to which
21 such taxes are carried by substituting ‘for-
22 eign oil and gas extraction income’ for ‘for-
23 eign oil and gas income’ in subsection (a).

24 “(B) 2008 CREDITS.—In the case of any
25 unused credit year beginning in 2008, the

1 amendments made to this subsection by the
2 Clean Renewable Energy and Conservation Tax
3 Act of 2007 shall be treated as being in effect
4 for any preceding year beginning before Janu-
5 ary 1, 2008, solely for purposes of determining
6 how much of the unused foreign oil and gas
7 taxes for such unused credit year may be
8 deemed paid or accrued in such preceding
9 year.”.

10 (d) CONFORMING AMENDMENT.—Section 6501(i) is
11 amended by striking “oil and gas extraction taxes” and
12 inserting “foreign oil and gas taxes”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2007.

16 **SEC. 1563. SEVEN-YEAR AMORTIZATION OF GEOLOGICAL**
17 **AND GEOPHYSICAL EXPENDITURES FOR CER-**
18 **TAIN MAJOR INTEGRATED OIL COMPANIES.**

19 (a) IN GENERAL.—Subparagraph (A) of section
20 167(h)(5) (relating to special rule for major integrated oil
21 companies) is amended by striking “5-year” and inserting
22 “7-year”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to amounts paid or incurred after
25 the date of the enactment of this Act.

1 **SEC. 1564. BROKER REPORTING OF CUSTOMER'S BASIS IN**
2 **SECURITIES TRANSACTIONS.**

3 (a) IN GENERAL.—

4 (1) BROKER REPORTING FOR SECURITIES
5 TRANSACTIONS.—Section 6045 (relating to returns
6 of brokers) is amended by adding at the end the fol-
7 lowing new subsection:

8 “(g) ADDITIONAL INFORMATION REQUIRED IN THE
9 CASE OF SECURITIES TRANSACTIONS.—

10 “(1) IN GENERAL.—If a broker is otherwise re-
11 quired to make a return under subsection (a) with
12 respect to the gross proceeds of the sale of a covered
13 security, the broker shall include in such return the
14 information described in paragraph (2).

15 “(2) ADDITIONAL INFORMATION REQUIRED.—

16 “(A) IN GENERAL.—The information re-
17 quired under paragraph (1) to be shown on a
18 return with respect to a covered security of a
19 customer shall include the customer's adjusted
20 basis in such security and whether any gain or
21 loss with respect to such security is long-term
22 or short-term (within the meaning of section
23 1222).

24 “(B) DETERMINATION OF ADJUSTED
25 BASIS.—For purposes of subparagraph (A)—

1 “(i) IN GENERAL.—The customer’s
2 adjusted basis shall be determined—

3 “(I) in the case of any stock
4 (other than any stock in an open-end
5 fund), in accordance with the first-in
6 first-out method unless the customer
7 notifies the broker by means of mak-
8 ing an adequate identification of the
9 stock sold or transferred,

10 “(II) in the case of any stock in
11 an open-end fund acquired before
12 January 1, 2011, in accordance with
13 any acceptable method under section
14 1012 with respect to the account in
15 which such interest is held,

16 “(III) in the case of any stock in
17 an open-end fund acquired after De-
18 cember 31, 2010, in accordance with
19 the broker’s default method unless the
20 customer notifies the broker that he
21 elects another acceptable method
22 under section 1012 with respect to the
23 account in which such interest is held,
24 and

1 “(IV) in any other case, under
2 the method for making such deter-
3 mination under section 1012.

4 “(ii) EXCEPTION FOR WASH SALES.—
5 Except as otherwise provided by the Sec-
6 retary, the customer’s adjusted basis shall
7 be determined without regard to section
8 1091 (relating to loss from wash sales of
9 stock or securities) unless the transactions
10 occur in the same account with respect to
11 identical securities.

12 “(3) COVERED SECURITY.—For purposes of
13 this subsection—

14 “(A) IN GENERAL.—The term ‘covered se-
15 curity’ means any specified security acquired on
16 or after the applicable date if such security—

17 “(i) was acquired through a trans-
18 action in the account in which such secu-
19 rity is held, or

20 “(ii) was transferred to such account
21 from an account in which such security
22 was a covered security, but only if the
23 broker received a statement under section
24 6045A with respect to the transfer.

1 “(B) SPECIFIED SECURITY.—The term
2 ‘specified security’ means—

3 “(i) any share of stock in a corpora-
4 tion,

5 “(ii) any note, bond, debenture, or
6 other evidence of indebtedness,

7 “(iii) any commodity, or contract or
8 derivative with respect to such commodity,
9 if the Secretary determines that adjusted
10 basis reporting is appropriate for purposes
11 of this subsection, and

12 “(iv) any other financial instrument
13 with respect to which the Secretary deter-
14 mines that adjusted basis reporting is ap-
15 propriate for purposes of this subsection.

16 “(C) APPLICABLE DATE.—The term ‘appli-
17 cable date’ means—

18 “(i) January 1, 2009, in the case of
19 any specified security which is stock in a
20 corporation, and

21 “(ii) January 1, 2011, or such later
22 date determined by the Secretary in the
23 case of any other specified security.

24 “(4) OPEN-END FUND.—For purposes of this
25 subsection, the term ‘open-end fund’ means a regu-

1 lated investment company (as defined in section
2 851) which is offering for sale or has outstanding
3 any redeemable security of which it is the issuer and
4 the shares of which are not traded on an established
5 securities exchange.

6 “(5) TREATMENT OF S CORPORATIONS.—In the
7 case of the sale of a covered security acquired by an
8 S corporation (other than a financial institution)
9 after December 31, 2010, such S corporation shall
10 be treated in the same manner as a partnership for
11 purposes of this section.

12 “(6) SPECIAL RULES FOR SHORT SALES.—

13 “(A) IN GENERAL.—Notwithstanding sub-
14 section (a), in the case of a short sale under
15 section 1233, reporting under this section shall
16 be made for the year in which such sale is
17 closed.

18 “(B) EXCEPTION FOR CONSTRUCTIVE
19 SALES.—Subparagraph (A) shall not apply to
20 any short sale which results in a constructive
21 sale under section 1259 with respect to prop-
22 erty held in the account in which the short sale
23 is entered into.”.

24 “(2) BROKER INFORMATION REQUIRED WITH RE-
25 SPECT TO OPTIONS.—Section 6045, as amended by

1 subsection (a), is amended by adding at the end the
2 following new subsection:

3 “(h) APPLICATION TO OPTIONS ON SECURITIES.—

4 “(1) EXERCISE OF OPTION.—For purposes of
5 this section, in the case of any exercise of an option
6 on a covered security where the option was granted
7 or acquired in the same account as the covered secu-
8 rity, the amount received or paid with respect to
9 such exercise shall be treated as an adjustment to
10 gross proceeds or as an adjustment to basis, as the
11 case may be.

12 “(2) LAPSE OR CLOSING TRANSACTION.—For
13 purposes of this section, in the case of the lapse (or
14 closing transaction (as defined in section
15 1234(b)(2)(A))) of an option on a specified security
16 where the taxpayer is the grantor of the option, this
17 section shall apply as if the premium received for
18 such option were gross proceeds received on the date
19 of the lapse or closing transaction, and the cost (if
20 any) of the closing transaction shall be taken into
21 account as adjusted basis. In the case of an option
22 on a specified security where the taxpayer is the
23 grantee of such option, this section shall apply as if
24 the grantee received gross proceeds of zero on the
25 date of the lapse.

1 “(3) PROSPECTIVE APPLICATION.—Paragraphs
2 (1) and (2) shall not apply to any option which is
3 granted or acquired before January 1, 2011.

4 “(4) DEFINITIONS.—For purposes of this sub-
5 section, the terms ‘covered security’ and ‘specified
6 security’ shall have the meanings given such terms
7 in subsection (g)(3).”.

8 (3) EXTENSION OF PERIOD FOR STATEMENTS
9 SENT TO CUSTOMERS.—

10 (A) IN GENERAL.—Subsection (b) of sec-
11 tion 6045 is amended by striking “January 31”
12 and inserting “February 15 (January 31 in the
13 case of returns for calendar years before
14 2010)”.

15 (B) STATEMENTS RELATED TO SUB-
16 STITUTE PAYMENTS.—Subsection (d) of section
17 6045 is amended—

18 (i) by striking “at such time and”,
19 and

20 (ii) by inserting after “other item.”
21 the following new sentence: “In the case of
22 a payment made during any calendar year
23 after 2009, the written statement required
24 under the preceding sentence shall be fur-
25 nished on or before February 15 of the

1 year following the calendar year in which
2 the payment was made.”.

3 (C) OTHER STATEMENTS.—Subsection (b)
4 of section 6045 is amended by adding at the
5 end the following: “In the case of a consolidated
6 reporting statement (as defined in regulations)
7 with respect to any account which includes the
8 statement required by this subsection, any
9 statement which would otherwise be required to
10 be furnished on or before January 31 of a cal-
11 endar year after 2010 under section 6042(c),
12 6049(c)(2)(A), or 6050N(b) with respect to any
13 item in such account shall instead be required
14 to be furnished on or before February 15 of
15 such calendar year if furnished as part of such
16 consolidated reporting statement.”.

17 (b) DETERMINATION OF BASIS OF CERTAIN SECURI-
18 TIES ON ACCOUNT BY ACCOUNT METHOD.—Section 1012
19 (relating to basis of property–cost) is amended—

20 (1) by striking “The basis of property” and in-
21 serting the following:

22 “(a) IN GENERAL.—The basis of property”,

23 (2) by striking “The cost of real property” and
24 inserting the following:

1 “(b) SPECIAL RULE FOR APPORTIONED REAL ES-
2 TATE TAXES.—The cost of real property”, and

3 (3) by adding at the end the following new sub-
4 section:

5 “(c) DETERMINATIONS BY ACCOUNT.—

6 “(1) IN GENERAL.—In the case of the sale, ex-
7 change, or other disposition of a specified security
8 on or after the applicable date, the conventions pre-
9 scribed by regulations under this section shall be ap-
10 plied on an account by account basis.

11 “(2) APPLICATION TO OPEN-END FUNDS.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), any stock in an open-end
14 fund acquired before January 1, 2009, shall be
15 treated as a separate account from any such
16 stock acquired on or after such date.

17 “(B) ELECTION BY OPEN-END FUND FOR
18 TREATMENT AS SINGLE ACCOUNT.—If an open-
19 end fund elects (at such time and in such form
20 and manner as the Secretary may prescribe) to
21 have this subparagraph apply with respect to
22 one or more of its stockholders—

23 “(i) subparagraph (A) shall not apply
24 with respect to any stock in such fund held
25 by such stockholders, and

1 “(ii) all stock in such fund which is
2 held by such stockholders shall be treated
3 as covered securities described in section
4 6045(g)(3) without regard to the date of
5 the acquisition of such stock.

6 A rule similar to the rule of the preceding sen-
7 tence shall apply with respect to a broker hold-
8 ing stock in an open-end fund as a nominee.

9 “(3) DEFINITIONS.—For purposes of this sec-
10 tion, the terms ‘specified security’, ‘applicable date’,
11 and ‘open-end fund’ shall have the meaning given
12 such terms in section 6045(g).”.

13 (c) INFORMATION BY TRANSFERORS TO AID BRO-
14 KERS.—

15 (1) IN GENERAL.—Subpart B of part III of
16 subchapter A of chapter 61 is amended by inserting
17 after section 6045 the following new section:

18 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**
19 **WITH TRANSFERS OF COVERED SECURITIES**
20 **TO BROKERS.**

21 “(a) FURNISHING OF INFORMATION.—Every applica-
22 ble person which transfers to a broker (as defined in sec-
23 tion 6045(c)(1)) a security which is a covered security (as
24 defined in section 6045(g)(3)) in the hands of such appli-
25 cable person shall furnish to such broker a written state-

1 ment in such manner and setting forth such information
2 as the Secretary may by regulations prescribe for purposes
3 of enabling such broker to meet the requirements of sec-
4 tion 6045(g).

5 “(b) APPLICABLE PERSON.—For purposes of sub-
6 section (a), the term ‘applicable person’ means—

7 “(1) any broker (as defined in section
8 6045(c)(1)), and

9 “(2) any other person as provided by the Sec-
10 retary in regulations.

11 “(c) TIME FOR FURNISHING STATEMENT.—Any
12 statement required by subsection (a) shall be furnished
13 not later than the earlier of—

14 “(1) 45 days after the date of the transfer de-
15 scribed in subsection (a), or

16 “(2) January 15 of the year following the cal-
17 endar year during which such transfer occurred.”.

18 (2) ASSESSABLE PENALTIES.—Paragraph (2)
19 of section 6724(d) (defining payee statement) is
20 amended by redesignating subparagraphs (I)
21 through (CC) as subparagraphs (J) through (DD),
22 respectively, and by inserting after subparagraph
23 (H) the following new subparagraph:

1 “(I) section 6045A (relating to information
2 required in connection with transfers of covered
3 securities to brokers).”.

4 (3) CLERICAL AMENDMENT.—The table of sec-
5 tions for subpart B of part III of subchapter A of
6 chapter 61 is amended by inserting after the item
7 relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered se-
curities to brokers.”.

8 (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-
9 KERS.—

10 (1) IN GENERAL.—Subpart B of part III of
11 subchapter A of chapter 61 of the Internal Revenue
12 Code of 1986, as amended by subsection (b), is
13 amended by inserting after section 6045A the fol-
14 lowing new section:

15 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**
16 **BASIS OF SPECIFIED SECURITIES.**

17 “(a) IN GENERAL.—According to the forms or regu-
18 lations prescribed by the Secretary, any issuer of a speci-
19 fied security shall make a return setting forth—

20 “(1) a description of any organizational action
21 which affects the basis of such specified security of
22 such issuer,

23 “(2) the quantitative effect on the basis of such
24 specified security resulting from such action, and

1 “(3) such other information as the Secretary
2 may prescribe.

3 “(b) TIME FOR FILING RETURN.—Any return re-
4 quired by subsection (a) shall be filed not later than the
5 earlier of—

6 “(1) 45 days after the date of the action de-
7 scribed in subsection (a), or

8 “(2) January 15 of the year following the cal-
9 endar year during which such action occurred.

10 “(c) STATEMENTS TO BE FURNISHED TO HOLDERS
11 OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-
12 cording to the forms or regulations prescribed by the Sec-
13 retary, every person required to make a return under sub-
14 section (a) with respect to a specified security shall furnish
15 to the nominee with respect to the specified security (or
16 certificate holder if there is no nominee) a written state-
17 ment showing—

18 “(1) the name, address, and phone number of
19 the information contact of the person required to
20 make such return,

21 “(2) the information required to be shown on
22 such return with respect to such security, and

23 “(3) such other information as the Secretary
24 may prescribe.

1 The written statement required under the preceding sen-
2 tence shall be furnished to the holder on or before January
3 15 of the year following the calendar year during which
4 the action described in subsection (a) occurred.

5 “(d) SPECIFIED SECURITY.—For purposes of this
6 section, the term ‘specified security’ has the meaning given
7 such term by section 6045(g)(3)(B). No return shall be
8 required under this section with respect to actions de-
9 scribed in subsection (a) with respect to a specified secu-
10 rity which occur before the applicable date (as defined in
11 section 6045(g)(3)(C)) with respect to such security.

12 “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The
13 Secretary may waive the requirements under subsections
14 (a) and (c) with respect to a specified security, if the per-
15 son required to make the return under subsection (a)
16 makes publicly available, in such form and manner as the
17 Secretary determines necessary to carry out the purposes
18 of this section—

19 “(1) the name, address, phone number, and
20 email address of the information contact of such
21 person, and

22 “(2) the information described in paragraphs
23 (1), (2), and (3) of subsection (a).”.

24 (2) ASSESSABLE PENALTIES.—

1 (A) Subparagraph (B) of section
2 6724(d)(1) of such Code (defining information
3 return) is amended by redesignating clauses (iv)
4 through (xix) as clauses (v) through (xx), re-
5 spectively, and by inserting after clause (iii) the
6 following new clause:

7 “(iv) section 6045B(a) (relating to re-
8 turns relating to actions affecting basis of
9 specified securities),”.

10 (B) Paragraph (2) of section 6724(d) of
11 such Code (defining payee statement), as
12 amended by subsection (c)(2), is amended by
13 redesignating subparagraphs (J) through (DD)
14 as subparagraphs (K) through (EE), respec-
15 tively, and by inserting after subparagraph (I)
16 the following new subparagraph:

17 “(J) subsections (c) and (e) of section
18 6045B (relating to returns relating to actions
19 affecting basis of specified securities).”.

20 (3) CLERICAL AMENDMENT.—The table of sec-
21 tions for subpart B of part III of subchapter A of
22 chapter 61 of such Code, as amended by subsection
23 (b)(3), is amended by inserting after the item relat-
24 ing to section 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of speci-
fied securities.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on January 1, 2009.

3 (f) STUDY REGARDING INFORMATION RETURNS.—

4 (1) IN GENERAL.—The Secretary of the Treas-
5 ury shall study the effect and feasibility of delaying
6 the date for furnishing statements under sections
7 6042(c), 6045, 6049(c)(2)(A), and 6050N(b) of the
8 Internal Revenue Code of 1986 until February 15
9 following the year to which such statements relate.

10 (2) REPORT.—Not later than 6 months after
11 the date of the enactment of this Act, the Secretary
12 of the Treasury shall report to Congress on the re-
13 sults of the study conducted under paragraph (1).
14 Such report shall include the Secretary's findings re-
15 garding—

16 (A) the effect on tax administration of
17 such delay, and

18 (B) other administrative or legislative op-
19 tions to improve compliance and ease burdens
20 on taxpayers and brokers with respect to such
21 statements.

22 **SEC. 1565. EXTENSION OF ADDITIONAL 0.2 PERCENT FUTA**
23 **SURTAX.**

24 (a) IN GENERAL.—Section 3301 (relating to rate of
25 tax) is amended—

1 (1) by striking “2007” in paragraph (1) and in-
2 serting “2008”, and

3 (2) by striking “2008” in paragraph (2) and in-
4 serting “2009”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2007.

8 SEC. 1566. REPEAL OF SUSPENSION OF CERTAIN PEN-
9 ALTIES AND INTEREST.

10 (a) IN GENERAL.—Section 6404 is amended by strik-
11 ing subsection (g) and by redesignating subsection (h) as
12 subsection (g).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices provided by the Secretary of the Treasury, or his delegate, after December 20, 2007.

17 SEC. 1567. TIME FOR PAYMENT OF CORPORATE ESTIMATED
18 TAXES.

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 6.25 percentage points.

1 **SEC. 1568. MODIFICATION OF PENALTY FOR FAILURE TO**
2 **FILE PARTNERSHIP RETURNS.**

3 (a) EXTENSION OF TIME LIMITATION.—Section
4 6698(a) (relating to failure to file partnership returns) is
5 amended by striking “5 months” and inserting “12
6 months”.

7 (b) INCREASE IN PENALTY AMOUNT.—Paragraph
8 (1) of section 6698(b) is amended by striking “\$50” and
9 inserting “\$100”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to returns required to be filed after
12 the date of the enactment of this Act.

13 **SEC. 1569. PARTICIPANTS IN GOVERNMENT SECTION 457**
14 **PLANS ALLOWED TO TREAT ELECTIVE DE-**
15 **FERRALS AS ROTH CONTRIBUTIONS.**

16 (a) IN GENERAL.—Section 402A(e)(1) (defining ap-
17 plicable retirement plan) is amended by striking “and” at
18 the end of subparagraph (A), by striking the period at
19 the end of subparagraph (B) and inserting “, and”, and
20 by adding at the end the following:

21 “(C) an eligible deferred compensation
22 plan (as defined in section 457(b)) of an eligible
23 employer described in section 457(e)(1)(A).”.

24 (b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (de-
25 fining elective deferral) is amended to read as follows:

1 “(2) ELECTIVE DEFERRAL.—The term ‘elective
2 deferral’ means—

3 “(A) any elective deferral described in sub-
4 paragraph (A) or (C) of section 402(g)(3), and

5 “(B) any elective deferral of compensation
6 by an individual under an eligible deferred com-
7 pensation plan (as defined in section 457(b)) of
8 an eligible employer described in section
9 457(e)(1)(A).”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2007.

13 **Subtitle F—Secure Rural Schools**

14 **SEC. 1571. SECURE RURAL SCHOOLS AND COMMUNITY** 15 **SELF-DETERMINATION PROGRAM.**

16 (a) REAUTHORIZATION OF THE SECURE RURAL
17 SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT
18 OF 2000.—The Secure Rural Schools and Community
19 Self-Determination Act of 2000 (16 U.S.C. 500 note; Pub-
20 lic Law 106–393) is amended by striking sections 1
21 through 403 and inserting the following:

22 **“SECTION 1. SHORT TITLE.**

23 “‘This Act may be cited as the ‘Secure Rural Schools
24 and Community Self-Determination Act of 2000’.

1 **“SEC. 2. PURPOSES.**

2 “The purposes of this Act are—

3 “(1) to stabilize and transition payments to
4 counties to provide funding for schools and roads
5 that supplements other available funds;

6 “(2) to make additional investments in, and
7 create additional employment opportunities through,
8 projects that—

9 “(A)(i) improve the maintenance of exist-
10 ing infrastructure;

11 “(ii) implement stewardship objectives that
12 enhance forest ecosystems; and

13 “(iii) restore and improve land health and
14 water quality;

15 “(B) enjoy broad-based support; and

16 “(C) have objectives that may include—

17 “(i) road, trail, and infrastructure
18 maintenance or obliteration;

19 “(ii) soil productivity improvement;

20 “(iii) improvements in forest eco-
21 system health;

22 “(iv) watershed restoration and main-
23 tenance;

24 “(v) the restoration, maintenance, and
25 improvement of wildlife and fish habitat;

1 “(vi) the control of noxious and exotic
2 weeds; and

3 “(vii) the reestablishment of native
4 species; and

5 “(3) to improve cooperative relationships
6 among—

7 “(A) the people that use and care for Fed-
8 eral land; and

9 “(B) the agencies that manage the Federal
10 land.

11 **“SEC. 3. DEFINITIONS.**

12 “In this Act:

13 “(1) ADJUSTED SHARE.—The term ‘adjusted
14 share’ means the number equal to the quotient ob-
15 tained by dividing—

16 “(A) the number equal to the quotient ob-
17 tained by dividing—

18 “(i) the base share for the eligible
19 county; by

20 “(ii) the income adjustment for the el-
21 igible county; by

22 “(B) the number equal to the sum of the
23 quotients obtained under subparagraph (A) and
24 paragraph (8)(A) for all eligible counties.

1 “(2) BASE SHARE.—The term ‘base share’
2 means the number equal to the average of—

3 “(A) the quotient obtained by dividing—

4 “(i) the number of acres of Federal
5 land described in paragraph (7)(A) in each
6 eligible county; by

7 “(ii) the total number acres of Fed-
8 eral land in all eligible counties in all eligi-
9 ble States; and

10 “(B) the quotient obtained by dividing—

11 “(i) the amount equal to the average
12 of the 3 highest 25-percent payments and
13 safety net payments made to each eligible
14 State for each eligible county during the
15 eligibility period; by

16 “(ii) the amount equal to the sum of
17 the amounts calculated under clause (i)
18 and paragraph (9)(B)(i) for all eligible
19 counties in all eligible States during the
20 eligibility period.

21 “(3) COUNTY PAYMENT.—The term ‘county
22 payment’ means the payment for an eligible county
23 calculated under section 101(b).

24 “(4) ELIGIBLE COUNTY.—The term ‘eligible
25 county’ means any county that—

1 “(A) contains Federal land (as defined in
2 paragraph (7)); and

3 “(B) elects to receive a share of the State
4 payment or the county payment under section
5 102(b).

6 “(5) ELIGIBILITY PERIOD.—The term ‘eligi-
7 bility period’ means fiscal year 1986 through fiscal
8 year 1999.

9 “(6) ELIGIBLE STATE.—The term ‘eligible
10 State’ means a State or territory of the United
11 States that received a 25-percent payment for 1 or
12 more fiscal years of the eligibility period.

13 “(7) FEDERAL LAND.—The term ‘Federal land’
14 means—

15 “(A) land within the National Forest Sys-
16 tem, as defined in section 11(a) of the Forest
17 and Rangeland Renewable Resources Planning
18 Act of 1974 (16 U.S.C. 1609(a)) exclusive of
19 the National Grasslands and land utilization
20 projects designated as National Grasslands ad-
21 ministered pursuant to the Act of July 22,
22 1937 (7 U.S.C. 1010–1012); and

23 “(B) such portions of the revested Oregon
24 and California Railroad and reconveyed Coos
25 Bay Wagon Road grant land as are or may

1 hereafter come under the jurisdiction of the De-
2 partment of the Interior, which have heretofore
3 or may hereafter be classified as timberlands,
4 and power-site land valuable for timber, that
5 shall be managed, except as provided in the
6 former section 3 of the Act of August 28, 1937
7 (50 Stat. 875; 43 U.S.C. 1181c), for permanent
8 forest production.

9 “(8) 50-PERCENT ADJUSTED SHARE.—The
10 term ‘50-percent adjusted share’ means the number
11 equal to the quotient obtained by dividing—

12 “(A) the number equal to the quotient ob-
13 tained by dividing—

14 “(i) the 50-percent base share for the
15 eligible county; by

16 “(ii) the income adjustment for the el-
17 igible county; by

18 “(B) the number equal to the sum of the
19 quotients obtained under subparagraph (A) and
20 paragraph (1)(A) for all eligible counties.

21 “(9) 50-PERCENT BASE SHARE.—The term ‘50-
22 percent base share’ means the number equal to the
23 average of—

24 “(A) the quotient obtained by dividing—

1 “(i) the number of acres of Federal
2 land described in paragraph (7)(B) in each
3 eligible county; by

4 “(ii) the total number acres of Fed-
5 eral land in all eligible counties in all eligi-
6 ble States; and

7 “(B) the quotient obtained by dividing—

8 “(i) the amount equal to the average
9 of the 3 highest 50-percent payments made
10 to each eligible county during the eligibility
11 period; by

12 “(ii) the amount equal to the sum of
13 the amounts calculated under clause (i)
14 and paragraph (2)(B)(i) for all eligible
15 counties in all eligible States during the
16 eligibility period.

17 “(10) 50-PERCENT PAYMENT.—The term ‘50-
18 percent payment’ means the payment that is the
19 sum of the 50-percent share otherwise paid to a
20 county pursuant to title II of the Act of August 28,
21 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f),
22 and the payment made to a county pursuant to the
23 Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43
24 U.S.C. 1181f–1 et seq.).

1 “(11) FULL FUNDING AMOUNT.—The term ‘full
2 funding amount’ means—

3 “(A) \$500,000,000 for fiscal year 2008;
4 and

5 “(B) for fiscal year 2009 and each fiscal
6 year thereafter, the amount that is equal to 85
7 percent of the full funding amount for the pre-
8 ceding fiscal year.

9 “(12) INCOME ADJUSTMENT.—The term ‘in-
10 come adjustment’ means the square of the quotient
11 obtained by dividing—

12 “(A) the per capita personal income for
13 each eligible county; by

14 “(B) the median per capita personal in-
15 come of all eligible counties.

16 “(13) PER CAPITA PERSONAL INCOME.—The
17 term ‘per capita personal income’ means the most
18 recent per capita personal income data, as deter-
19 mined by the Bureau of Economic Analysis.

20 “(14) SAFETY NET PAYMENTS.—The term
21 ‘safety net payments’ means the special payment
22 amounts paid to States and counties required by
23 section 13982 or 13983 of the Omnibus Budget
24 Reconciliation Act of 1993 (Public Law 103–66; 16
25 U.S.C. 500 note; 43 U.S.C. 1181f note).

1 “(15) SECRETARY CONCERNED.—The term
2 ‘Secretary concerned’ means—

3 “(A) the Secretary of Agriculture or the
4 designee of the Secretary of Agriculture with
5 respect to the Federal land described in para-
6 graph (7)(A); and

7 “(B) the Secretary of the Interior or the
8 designee of the Secretary of the Interior with
9 respect to the Federal land described in para-
10 graph (7)(B).

11 “(16) STATE PAYMENT.—The term ‘State pay-
12 ment’ means the payment for an eligible State cal-
13 culated under section 101(a).

14 “(17) 25-PERCENT PAYMENT.—The term ‘25-
15 percent payment’ means the payment to States re-
16 quired by the sixth paragraph under the heading of
17 ‘FOREST SERVICE’ in the Act of May 23, 1908
18 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the
19 Act of March 1, 1911 (36 Stat. 963; 16 U.S.C.
20 500).

1 **“TITLE I—SECURE PAYMENTS**
2 **FOR STATES AND COUNTIES**
3 **CONTAINING FEDERAL LAND**

4 **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**
5 **FEDERAL LAND.**

6 “(a) STATE PAYMENT.—For each of fiscal years
7 2008 through 2011, the Secretary of Agriculture shall cal-
8 culate for each eligible State an amount equal to the sum
9 of the products obtained by multiplying—

10 “(1) the adjusted share for each eligible county
11 within the eligible State; by

12 “(2) the full funding amount for the fiscal year.

13 “(b) COUNTY PAYMENT.—For each of fiscal years
14 2008 through 2011, the Secretary of the Interior shall cal-
15 culate for each eligible county that received a 50-percent
16 payment during the eligibility period an amount equal to
17 the product obtained by multiplying—

18 “(1) the 50-percent adjusted share for the eligi-
19 ble county; by

20 “(2) the full funding amount for the fiscal year.

21 **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

22 “(a) PAYMENT AMOUNTS.—Except as provided in
23 section 103, the Secretary of the Treasury shall pay to—

24 “(1) a State or territory of the United States
25 an amount equal to the sum of the amounts elected

1 under subsection (b) by each county within the State
2 or territory for—

3 “(A) if the county is eligible for the 25-
4 percent payment, the share of the 25-percent
5 payment; or

6 “(B) the share of the State payment of the
7 eligible county; and

8 “(2) a county an amount equal to the amount
9 elected under subsection (b) by each county for—

10 “(A) if the county is eligible for the 50-
11 percent payment, the 50-percent payment; or

12 “(B) the county payment for the eligible
13 county.

14 “(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

15 “(1) ELECTION; SUBMISSION OF RESULTS.—

16 “(A) IN GENERAL.—The election to receive
17 a share of the State payment, the county pay-
18 ment, a share of the State payment and the
19 county payment, a share of the 25-percent pay-
20 ment, the 50-percent payment, or a share of the
21 25-percent payment and the 50-percent pay-
22 ment, as applicable, shall be made at the discre-
23 tion of each affected county by August 1, 2008,
24 and August 1 of each second fiscal year there-
25 after, in accordance with paragraph (2), and

1 transmitted to the Secretary concerned by the
2 Governor of each eligible State.

3 “(B) FAILURE TO TRANSMIT.—If an elec-
4 tion for an affected county is not transmitted to
5 the Secretary concerned by the date specified
6 under subparagraph (A), the affected county
7 shall be considered to have elected to receive a
8 share of the State payment, the county pay-
9 ment, or a share of the State payment and the
10 county payment, as applicable.

11 “(2) DURATION OF ELECTION.—

12 “(A) IN GENERAL.—A county election to
13 receive a share of the 25-percent payment or
14 50-percent payment, as applicable, shall be ef-
15 fective for 2 fiscal years.

16 “(B) FULL FUNDING AMOUNT.—If a coun-
17 ty elects to receive a share of the State payment
18 or the county payment, the election shall be ef-
19 fective for all subsequent fiscal years through
20 fiscal year 2011.

21 “(3) SOURCE OF PAYMENT AMOUNTS.—The
22 payment to an eligible State or eligible county under
23 this section for a fiscal year shall be derived from—

24 “(A) any revenues, fees, penalties, or mis-
25 cellaneous receipts, exclusive of deposits to any

1 relevant trust fund, special account, or perma-
2 nent operating funds, received by the Federal
3 Government from activities by the Bureau of
4 Land Management or the Forest Service on the
5 applicable Federal land; and

6 “(B) to the extent of any shortfall, out of
7 any amounts in the Treasury of the United
8 States not otherwise appropriated.

9 “(c) DISTRIBUTION AND EXPENDITURE OF PAY-
10 MENTS.—

11 “(1) DISTRIBUTION METHOD.—A State that re-
12 ceives a payment under subsection (a) for Federal
13 land described in section 3(7)(A) shall distribute the
14 appropriate payment amount among the appropriate
15 counties in the State in accordance with—

16 “(A) the Act of May 23, 1908 (16 U.S.C.
17 500); and

18 “(B) section 13 of the Act of March 1,
19 1911 (36 Stat. 963; 16 U.S.C. 500).

20 “(2) EXPENDITURE PURPOSES.—Subject to
21 subsection (d), payments received by a State under
22 subsection (a) and distributed to counties in accord-
23 ance with paragraph (1) shall be expended as re-
24 quired by the laws referred to in paragraph (1).

1 “(d) EXPENDITURE RULES FOR ELIGIBLE COUN-
2 TIES.—

3 “(1) ALLOCATIONS.—

4 “(A) USE OF PORTION IN SAME MANNER
5 AS 25-PERCENT PAYMENT OR 50-PERCENT PAY-
6 MENT, AS APPLICABLE.—Except as provided in
7 paragraph (3)(B), if an eligible county elects to
8 receive its share of the State payment or the
9 county payment, not less than 80 percent, but
10 not more than 85 percent, of the funds shall be
11 expended in the same manner in which the 25-
12 percent payments or 50-percent payment, as
13 applicable, are required to be expended.

14 “(B) ELECTION AS TO USE OF BAL-
15 ANCE.—Except as provided in subparagraph
16 (C), an eligible county shall elect to do 1 or
17 more of the following with the balance of any
18 funds not expended pursuant to subparagraph
19 (A):

20 “(i) Reserve any portion of the bal-
21 ance for projects in accordance with title
22 II.

23 “(ii) Reserve not more than 7 percent
24 of the total share for the eligible county of

1 the State payment or the county payment
2 for projects in accordance with title III.

3 “(iii) Return the portion of the bal-
4 ance not reserved under clauses (i) and (ii)
5 to the Treasury of the United States.

6 “(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to
7 which more than \$100,000, but less than
8 \$350,000, is distributed for any fiscal year pur-
9 suant to either or both of paragraphs (1)(B)
10 and (2)(B) of subsection (a), the eligible coun-
11 ty, with respect to the balance of any funds not
12 expended pursuant to subparagraph (A) for
13 that fiscal year, shall—
14

15 “(i) reserve any portion of the balance
16 for—

17 “(I) carrying out projects under
18 title II;

19 “(II) carrying out projects under
20 title III; or

21 “(III) a combination of the pur-
22 poses described in subclauses (I) and
23 (II); or

1 “(ii) return the portion of the balance
2 not reserved under clause (i) to the Treas-
3 ury of the United States.

4 “(2) DISTRIBUTION OF FUNDS.—

5 “(A) IN GENERAL.—Funds reserved by an
6 eligible county under subparagraph (B)(i) or
7 (C)(i) of paragraph (1) for carrying out
8 projects under title II shall be deposited in a
9 special account in the Treasury of the United
10 States.

11 “(B) AVAILABILITY.—Amounts deposited
12 under subparagraph (A) shall—

13 “(i) be available for expenditure by
14 the Secretary concerned, without further
15 appropriation; and

16 “(ii) remain available until expended
17 in accordance with title II.

18 “(3) ELECTION.—

19 “(A) NOTIFICATION.—

20 “(i) IN GENERAL.—An eligible county
21 shall notify the Secretary concerned of an
22 election by the eligible county under this
23 subsection not later than September 30 of
24 each fiscal year.

1 “(ii) FAILURE TO ELECT.—Except as
2 provided in subparagraph (B), if the eligi-
3 ble county fails to make an election by the
4 date specified in clause (i), the eligible
5 county shall—

6 “(I) be considered to have elected
7 to expend 85 percent of the funds in
8 accordance with paragraph (1)(A);
9 and

10 “(II) return the balance to the
11 Treasury of the United States.

12 “(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to
13 which less than \$100,000 is distributed for any
14 fiscal year pursuant to either or both of para-
15 graphs (1)(B) and (2)(B) of subsection (a), the
16 eligible county may elect to expend all the funds
17 in the same manner in which the 25-percent
18 payments or 50-percent payments, as applica-
19 ble, are required to be expended.
20

21 “(e) TIME FOR PAYMENT.—The payments required
22 under this section for a fiscal year shall be made as soon
23 as practicable after the end of that fiscal year.

1 **“SEC. 103. TRANSITION PAYMENTS TO THE STATES OF**
2 **CALIFORNIA, OREGON, AND WASHINGTON.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) ADJUSTED AMOUNT.—The term ‘adjusted
5 amount’ means, with respect to a covered State—

6 “(A) for fiscal year 2008, 90 percent of—

7 “(i) the sum of the amounts paid for
8 fiscal year 2006 under section 102(a)(2)
9 (as in effect on September 29, 2006) for
10 the eligible counties in the covered State
11 that have elected under section 102(b) to
12 receive a share of the State payment for
13 fiscal year 2008; and

14 “(ii) the sum of the amounts paid for
15 fiscal year 2006 under section 103(a)(2)
16 (as in effect on September 29, 2006) for
17 the eligible counties in the State of Oregon
18 that have elected under section 102(b) to
19 receive the county payment for fiscal year
20 2008;

21 “(B) for fiscal year 2009, 76 percent of—

22 “(i) the sum of the amounts paid for
23 fiscal year 2006 under section 102(a)(2)
24 (as in effect on September 29, 2006) for
25 the eligible counties in the covered State
26 that have elected under section 102(b) to

1 receive a share of the State payment for
2 fiscal year 2009; and

3 “(ii) the sum of the amounts paid for
4 fiscal year 2006 under section 103(a)(2)
5 (as in effect on September 29, 2006) for
6 the eligible counties in the State of Oregon
7 that have elected under section 102(b) to
8 receive the county payment for fiscal year
9 2009; and

10 “(C) for fiscal year 2010, 65 percent of—

11 “(i) the sum of the amounts paid for
12 fiscal year 2006 under section 102(a)(2)
13 (as in effect on September 29, 2006) for
14 the eligible counties in the covered State
15 that have elected under section 102(b) to
16 receive a share of the State payment for
17 fiscal year 2010; and

18 “(ii) the sum of the amounts paid for
19 fiscal year 2006 under section 103(a)(2)
20 (as in effect on September 29, 2006) for
21 the eligible counties in the State of Oregon
22 that have elected under section 102(b) to
23 receive the county payment for fiscal year
24 2010.

1 “(2) COVERED STATE.—The term ‘covered
2 State’ means each of the States of California, Or-
3 egon, and Washington.

4 “(b) TRANSITION PAYMENTS.—For each of fiscal
5 years 2008 through 2010, in lieu of the payment amounts
6 that otherwise would have been made under paragraphs
7 (1)(B) and (2)(B) of section 102(a), the Secretary of the
8 Treasury shall pay the adjusted amount to each covered
9 State and the eligible counties within the covered State,
10 as applicable.

11 “(c) DISTRIBUTION OF ADJUSTED AMOUNT IN OR-
12 EGON AND WASHINGTON.—It is the intent of Congress
13 that the method of distributing the payments under sub-
14 section (b) among the counties in the States of Oregon
15 and Washington for each of fiscal years 2008 through
16 2010 be in the same proportion that the payments were
17 distributed to the eligible counties in fiscal year 2006.

18 “(d) DISTRIBUTION OF PAYMENTS IN CALI-
19 FORNIA.—The following payments shall be distributed
20 among the eligible counties in the State of California in
21 the same proportion that payments under section
22 102(a)(2) (as in effect on September 29, 2006) were dis-
23 tributed to the eligible counties for fiscal year 2006:

24 “(1) Payments to the State of California under
25 subsection (b).

1 “(2) The shares of the eligible counties of the
2 State payment for California under section 102 for
3 fiscal year 2011.

4 “(e) TREATMENT OF PAYMENTS.—For purposes of
5 this Act, any payment made under subsection (b) shall be
6 considered to be a payment made under section 102(a).

7 **“TITLE II—SPECIAL PROJECTS**
8 **ON FEDERAL LAND**

9 **“SEC. 201. DEFINITIONS.**

10 “In this title:

11 “(1) PARTICIPATING COUNTY.—The term ‘par-
12 ticipating county’ means an eligible county that
13 elects under section 102(d) to expend a portion of
14 the Federal funds received under section 102 in ac-
15 cordance with this title.

16 “(2) PROJECT FUNDS.—The term ‘project
17 funds’ means all funds an eligible county elects
18 under section 102(d) to reserve for expenditure in
19 accordance with this title.

20 “(3) RESOURCE ADVISORY COMMITTEE.—The
21 term ‘resource advisory committee’ means—

22 “(A) an advisory committee established by
23 the Secretary concerned under section 205; or

1 “(B) an advisory committee determined by
2 the Secretary concerned to meet the require-
3 ments of section 205.

4 “(4) RESOURCE MANAGEMENT PLAN.—The
5 term ‘resource management plan’ means—

6 “(A) a land use plan prepared by the Bu-
7 reau of Land Management for units of the Fed-
8 eral land described in section 3(7)(B) pursuant
9 to section 202 of the Federal Land Policy and
10 Management Act of 1976 (43 U.S.C. 1712); or

11 “(B) a land and resource management
12 plan prepared by the Forest Service for units of
13 the National Forest System pursuant to section
14 6 of the Forest and Rangeland Renewable Re-
15 sources Planning Act of 1974 (16 U.S.C.
16 1604).

17 **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**
18 **FUNDS.**

19 “(a) LIMITATION.—Project funds shall be expended
20 solely on projects that meet the requirements of this title.

21 “(b) AUTHORIZED USES.—Project funds may be
22 used by the Secretary concerned for the purpose of enter-
23 ing into and implementing cooperative agreements with
24 willing Federal agencies, State and local governments, pri-
25 vate and nonprofit entities, and landowners for protection,

1 restoration, and enhancement of fish and wildlife habitat,
2 and other resource objectives consistent with the purposes
3 of this Act on Federal land and on non-Federal land where
4 projects would benefit the resources on Federal land.

5 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

6 “(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-
7 RETARY CONCERNED.—

8 “(1) PROJECTS FUNDED USING PROJECT
9 FUNDS.—Not later than September 30 for fiscal
10 year 2008, and each September 30 thereafter for
11 each succeeding fiscal year through fiscal year 2011,
12 each resource advisory committee shall submit to the
13 Secretary concerned a description of any projects
14 that the resource advisory committee proposes the
15 Secretary undertake using any project funds re-
16 served by eligible counties in the area in which the
17 resource advisory committee has geographic jurisdic-
18 tion.

19 “(2) PROJECTS FUNDED USING OTHER
20 FUNDS.—A resource advisory committee may submit
21 to the Secretary concerned a description of any
22 projects that the committee proposes the Secretary
23 undertake using funds from State or local govern-
24 ments, or from the private sector, other than project

1 funds and funds appropriated and otherwise avail-
2 able to do similar work.

3 “(3) JOINT PROJECTS.—Participating counties
4 or other persons may propose to pool project funds
5 or other funds, described in paragraph (2), and
6 jointly propose a project or group of projects to a re-
7 source advisory committee established under section
8 205.

9 “(b) REQUIRED DESCRIPTION OF PROJECTS.—In
10 submitting proposed projects to the Secretary concerned
11 under subsection (a), a resource advisory committee shall
12 include in the description of each proposed project the fol-
13 lowing information:

14 “(1) The purpose of the project and a descrip-
15 tion of how the project will meet the purposes of this
16 title.

17 “(2) The anticipated duration of the project.

18 “(3) The anticipated cost of the project.

19 “(4) The proposed source of funding for the
20 project, whether project funds or other funds.

21 “(5)(A) Expected outcomes, including how the
22 project will meet or exceed desired ecological condi-
23 tions, maintenance objectives, or stewardship objec-
24 tives.

1 “(B) An estimate of the amount of any timber,
2 forage, and other commodities and other economic
3 activity, including jobs generated, if any, anticipated
4 as part of the project.

5 “(6) A detailed monitoring plan, including
6 funding needs and sources, that—

7 “(A) tracks and identifies the positive or
8 negative impacts of the project, implementation,
9 and provides for validation monitoring; and

10 “(B) includes an assessment of the fol-
11 lowing:

12 “(i) Whether or not the project met or
13 exceeded desired ecological conditions; cre-
14 ated local employment or training opportu-
15 nities, including summer youth jobs pro-
16 grams such as the Youth Conservation
17 Corps where appropriate.

18 “(ii) Whether the project improved
19 the use of, or added value to, any products
20 removed from land consistent with the pur-
21 poses of this title.

22 “(7) An assessment that the project is to be in
23 the public interest.

24 “(c) AUTHORIZED PROJECTS.—Projects proposed
25 under subsection (a) shall be consistent with section 2.

1 **“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY**
2 **SECRETARY CONCERNED.**

3 “(a) CONDITIONS FOR APPROVAL OF PROPOSED
4 PROJECT.—The Secretary concerned may make a decision
5 to approve a project submitted by a resource advisory com-
6 mittee under section 203 only if the proposed project satis-
7 fies each of the following conditions:

8 “(1) The project complies with all applicable
9 Federal laws (including regulations).

10 “(2) The project is consistent with the applica-
11 ble resource management plan and with any water-
12 shed or subsequent plan developed pursuant to the
13 resource management plan and approved by the Sec-
14 retary concerned.

15 “(3) The project has been approved by the re-
16 source advisory committee in accordance with sec-
17 tion 205, including the procedures issued under sub-
18 section (e) of that section.

19 “(4) A project description has been submitted
20 by the resource advisory committee to the Secretary
21 concerned in accordance with section 203.

22 “(5) The project will improve the maintenance
23 of existing infrastructure, implement stewardship ob-
24 jectives that enhance forest ecosystems, and restore
25 and improve land health and water quality.

26 “(b) ENVIRONMENTAL REVIEWS.—

1 “(1) REQUEST FOR PAYMENT BY COUNTY.—

2 The Secretary concerned may request the resource
3 advisory committee submitting a proposed project to
4 agree to the use of project funds to pay for any envi-
5 ronmental review, consultation, or compliance with
6 applicable environmental laws required in connection
7 with the project.

8 “(2) CONDUCT OF ENVIRONMENTAL REVIEW.—

9 If a payment is requested under paragraph (1) and
10 the resource advisory committee agrees to the ex-
11 penditure of funds for this purpose, the Secretary
12 concerned shall conduct environmental review, con-
13 sultation, or other compliance responsibilities in ac-
14 cordance with Federal laws (including regulations).

15 “(3) EFFECT OF REFUSAL TO PAY.—

16 “(A) IN GENERAL.—If a resource advisory
17 committee does not agree to the expenditure of
18 funds under paragraph (1), the project shall be
19 deemed withdrawn from further consideration
20 by the Secretary concerned pursuant to this
21 title.

22 “(B) EFFECT OF WITHDRAWAL.—A with-
23 drawal under subparagraph (A) shall be deemed
24 to be a rejection of the project for purposes of
25 section 207(c).

1 “(c) DECISIONS OF SECRETARY CONCERNED.—

2 “(1) REJECTION OF PROJECTS.—

3 “(A) IN GENERAL.—A decision by the Sec-
4 retary concerned to reject a proposed project
5 shall be at the sole discretion of the Secretary
6 concerned.

7 “(B) NO ADMINISTRATIVE APPEAL OR JU-
8 DICIAL REVIEW.—Notwithstanding any other
9 provision of law, a decision by the Secretary
10 concerned to reject a proposed project shall not
11 be subject to administrative appeal or judicial
12 review.

13 “(C) NOTICE OF REJECTION.—Not later
14 than 30 days after the date on which the Sec-
15 retary concerned makes the rejection decision,
16 the Secretary concerned shall notify in writing
17 the resource advisory committee that submitted
18 the proposed project of the rejection and the
19 reasons for rejection.

20 “(2) NOTICE OF PROJECT APPROVAL.—The
21 Secretary concerned shall publish in the Federal
22 Register notice of each project approved under sub-
23 section (a) if the notice would be required had the
24 project originated with the Secretary.

1 “(d) SOURCE AND CONDUCT OF PROJECT.—Once the
2 Secretary concerned accepts a project for review under
3 section 203, the acceptance shall be deemed a Federal ac-
4 tion for all purposes.

5 “(e) IMPLEMENTATION OF APPROVED PROJECTS.—

6 “(1) COOPERATION.—Notwithstanding chapter
7 63 of title 31, United States Code, using project
8 funds the Secretary concerned may enter into con-
9 tracts, grants, and cooperative agreements with
10 States and local governments, private and nonprofit
11 entities, and landowners and other persons to assist
12 the Secretary in carrying out an approved project.

13 “(2) BEST VALUE CONTRACTING.—

14 “(A) IN GENERAL.—For any project in-
15 volving a contract authorized by paragraph (1)
16 the Secretary concerned may elect a source for
17 performance of the contract on a best value
18 basis.

19 “(B) FACTORS.—The Secretary concerned
20 shall determine best value based on such factors
21 as—

22 “(i) the technical demands and com-
23 plexity of the work to be done;

24 “(ii)(I) the ecological objectives of the
25 project; and

1 “(II) the sensitivity of the resources
2 being treated;

3 “(iii) the past experience by the con-
4 tractor with the type of work being done,
5 using the type of equipment proposed for
6 the project, and meeting or exceeding de-
7 sired ecological conditions; and

8 “(iv) the commitment of the con-
9 tractor to hiring highly qualified workers
10 and local residents.

11 “(3) MERCHANTABLE TIMBER CONTRACTING
12 PILOT PROGRAM.—

13 “(A) ESTABLISHMENT.—The Secretary
14 concerned shall establish a pilot program to im-
15 plement a certain percentage of approved
16 projects involving the sale of merchantable tim-
17 ber using separate contracts for—

18 “(i) the harvesting or collection of
19 merchantable timber; and

20 “(ii) the sale of the timber.

21 “(B) ANNUAL PERCENTAGES.—Under the
22 pilot program, the Secretary concerned shall en-
23 sure that, on a nationwide basis, not less than
24 the following percentage of all approved projects

1 involving the sale of merchantable timber are
2 implemented using separate contracts:

3 “(i) For fiscal year 2008, 35 percent.

4 “(ii) For fiscal year 2009, 45 percent.

5 “(iii) For each of fiscal years 2010
6 and 2011, 50 percent.

7 “(C) INCLUSION IN PILOT PROGRAM.—The
8 decision whether to use separate contracts to
9 implement a project involving the sale of mer-
10 chantable timber shall be made by the Sec-
11 retary concerned after the approval of the
12 project under this title.

13 “(D) ASSISTANCE.—

14 “(i) IN GENERAL.—The Secretary
15 concerned may use funds from any appro-
16 priated account available to the Secretary
17 for the Federal land to assist in the ad-
18 ministration of projects conducted under
19 the pilot program.

20 “(ii) MAXIMUM AMOUNT OF ASSIST-
21 ANCE.—The total amount obligated under
22 this subparagraph may not exceed
23 \$1,000,000 for any fiscal year during
24 which the pilot program is in effect.

25 “(E) REVIEW AND REPORT.—

1 “(i) INITIAL REPORT.—Not later than
2 September 30, 2010, the Comptroller Gen-
3 eral shall submit to the Committees on Ag-
4 riculture, Nutrition, and Forestry and En-
5 ergy and Natural Resources of the Senate
6 and the Committees on Agriculture and
7 Natural Resources of the House of Rep-
8 resentatives a report assessing the pilot
9 program.

10 “(ii) ANNUAL REPORT.—The Sec-
11 retary concerned shall submit to the Com-
12 mittees on Agriculture, Nutrition, and For-
13 estry and Energy and Natural Resources
14 of the Senate and the Committees on Agri-
15 culture and Natural Resources of the
16 House of Representatives an annual report
17 describing the results of the pilot program.

18 “(f) REQUIREMENTS FOR PROJECT FUNDS.—The
19 Secretary shall ensure that at least 50 percent of all
20 project funds be used for projects that are primarily dedi-
21 cated—

22 “(1) to road maintenance, decommissioning, or
23 obliteration; or

24 “(2) to restoration of streams and watersheds.

1 **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

2 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE
3 ADVISORY COMMITTEES.—

4 “(1) ESTABLISHMENT.—The Secretary con-
5 cerned shall establish and maintain resource advi-
6 sory committees to perform the duties in subsection
7 (b), except as provided in paragraph (4).

8 “(2) PURPOSE.—The purpose of a resource ad-
9 visory committee shall be—

10 “(A) to improve collaborative relationships;
11 and

12 “(B) to provide advice and recommenda-
13 tions to the land management agencies con-
14 sistent with the purposes of this title.

15 “(3) ACCESS TO RESOURCE ADVISORY COMMIT-
16 TEES.—To ensure that each unit of Federal land
17 has access to a resource advisory committee, and
18 that there is sufficient interest in participation on a
19 committee to ensure that membership can be bal-
20 anced in terms of the points of view represented and
21 the functions to be performed, the Secretary con-
22 cerned may, establish resource advisory committees
23 for part of, or 1 or more, units of Federal land.

24 “(4) EXISTING ADVISORY COMMITTEES.—

25 “(A) IN GENERAL.—An advisory com-
26 mittee that meets the requirements of this sec-

1 tion, a resource advisory committee established
2 before September 29, 2006, or an advisory com-
3 mittee determined by the Secretary concerned
4 before September 29, 2006, to meet the re-
5 quirements of this section may be deemed by
6 the Secretary concerned to be a resource advi-
7 sory committee for the purposes of this title.

8 “(B) CHARTER.—A charter for a com-
9 mittee described in subparagraph (A) that was
10 filed on or before September 29, 2006, shall be
11 considered to be filed for purposes of this Act.

12 “(C) BUREAU OF LAND MANAGEMENT AD-
13 VISORY COMMITTEES.—The Secretary of the In-
14 terior may deem a resource advisory committee
15 meeting the requirements of subpart 1784 of
16 part 1780 of title 43, Code of Federal Regula-
17 tions, as a resource advisory committee for the
18 purposes of this title.

19 “(b) DUTIES.—A resource advisory committee
20 shall—

21 “(1) review projects proposed under this title by
22 participating counties and other persons;

23 “(2) propose projects and funding to the Sec-
24 retary concerned under section 203;

1 “(3) provide early and continuous coordination
2 with appropriate land management agency officials
3 in recommending projects consistent with purposes
4 of this Act under this title;

5 “(4) provide frequent opportunities for citizens,
6 organizations, tribes, land management agencies,
7 and other interested parties to participate openly
8 and meaningfully, beginning at the early stages of
9 the project development process under this title;

10 “(5)(A) monitor projects that have been ap-
11 proved under section 204; and

12 “(B) advise the designated Federal official on
13 the progress of the monitoring efforts under sub-
14 paragraph (A); and

15 “(6) make recommendations to the Secretary
16 concerned for any appropriate changes or adjust-
17 ments to the projects being monitored by the re-
18 source advisory committee.

19 “(c) APPOINTMENT BY THE SECRETARY.—

20 “(1) APPOINTMENT AND TERM.—

21 “(A) IN GENERAL.—The Secretary con-
22 cerned, shall appoint the members of resource
23 advisory committees for a term of 4 years be-
24 ginning on the date of appointment.

1 “(B) REAPPOINTMENT.—The Secretary
2 concerned may reappoint members to subse-
3 quent 4-year terms.

4 “(2) BASIC REQUIREMENTS.—The Secretary
5 concerned shall ensure that each resource advisory
6 committee established meets the requirements of
7 subsection (d).

8 “(3) INITIAL APPOINTMENT.—Not later than
9 180 days after the date of the enactment of this Act,
10 the Secretary concerned shall make initial appoint-
11 ments to the resource advisory committees.

12 “(4) VACANCIES.—The Secretary concerned
13 shall make appointments to fill vacancies on any re-
14 source advisory committee as soon as practicable
15 after the vacancy has occurred.

16 “(5) COMPENSATION.—Members of the re-
17 source advisory committees shall not receive any
18 compensation.

19 “(d) COMPOSITION OF ADVISORY COMMITTEE.—

20 “(1) NUMBER.—Each resource advisory com-
21 mittee shall be comprised of 15 members.

22 “(2) COMMUNITY INTERESTS REPRESENTED.—
23 Committee members shall be representative of the
24 interests of the following 3 categories:

25 “(A) 5 persons that—

1 “(i) represent organized labor or non-
2 timber forest product harvester groups;

3 “(ii) represent developed outdoor
4 recreation, off highway vehicle users, or
5 commercial recreation activities;

6 “(iii) represent—

7 “(I) energy and mineral develop-
8 ment interests; or

9 “(II) commercial or recreational
10 fishing interests;

11 “(iv) represent the commercial timber
12 industry; or

13 “(v) hold Federal grazing or other
14 land use permits, or represent nonindus-
15 trial private forest land owners, within the
16 area for which the committee is organized.

17 “(B) 5 persons that represent—

18 “(i) nationally recognized environ-
19 mental organizations;

20 “(ii) regionally or locally recognized
21 environmental organizations;

22 “(iii) dispersed recreational activities;

23 “(iv) archaeological and historical in-
24 terests; or

1 “(v) nationally or regionally recog-
2 nized wild horse and burro interest groups,
3 wildlife or hunting organizations, or water-
4 shed associations.

5 “(C) 5 persons that—

6 “(i) hold State elected office (or a
7 designee);

8 “(ii) hold county or local elected of-
9 fice;

10 “(iii) represent American Indian
11 tribes within or adjacent to the area for
12 which the committee is organized;

13 “(iv) are school officials or teachers;
14 or

15 “(v) represent the affected public at
16 large.

17 “(3) BALANCED REPRESENTATION.—In ap-
18 pointing committee members from the 3 categories
19 in paragraph (2), the Secretary concerned shall pro-
20 vide for balanced and broad representation from
21 within each category.

22 “(4) GEOGRAPHIC DISTRIBUTION.—The mem-
23 bers of a resource advisory committee shall reside
24 within the State in which the committee has juris-
25 diction and, to extent practicable, the Secretary con-

1 cerned shall ensure local representation in each cat-
2 egory in paragraph (2).

3 “(5) CHAIRPERSON.—A majority on each re-
4 source advisory committee shall select the chair-
5 person of the committee.

6 “(e) APPROVAL PROCEDURES.—

7 “(1) IN GENERAL.—Subject to paragraph (3),
8 each resource advisory committee shall establish pro-
9 cedures for proposing projects to the Secretary con-
10 cerned under this title.

11 “(2) QUORUM.—A quorum must be present to
12 constitute an official meeting of the committee.

13 “(3) APPROVAL BY MAJORITY OF MEMBERS.—
14 A project may be proposed by a resource advisory
15 committee to the Secretary concerned under section
16 203(a), if the project has been approved by a major-
17 ity of members of the committee from each of the
18 3 categories in subsection (d)(2).

19 “(f) OTHER COMMITTEE AUTHORITIES AND RE-
20 QUIREMENTS.—

21 “(1) STAFF ASSISTANCE.—A resource advisory
22 committee may submit to the Secretary concerned a
23 request for periodic staff assistance from Federal
24 employees under the jurisdiction of the Secretary.

1 “(2) MEETINGS.—All meetings of a resource
2 advisory committee shall be announced at least 1
3 week in advance in a local newspaper of record and
4 shall be open to the public.

5 “(3) RECORDS.—A resource advisory committee
6 shall maintain records of the meetings of the com-
7 mittee and make the records available for public in-
8 spection.

9 **“SEC. 206. USE OF PROJECT FUNDS.**

10 “(a) AGREEMENT REGARDING SCHEDULE AND COST
11 OF PROJECT.—

12 “(1) AGREEMENT BETWEEN PARTIES.—The
13 Secretary concerned may carry out a project sub-
14 mitted by a resource advisory committee under sec-
15 tion 203(a) using project funds or other funds de-
16 scribed in section 203(a)(2), if, as soon as prac-
17 ticable after the issuance of a decision document for
18 the project and the exhaustion of all administrative
19 appeals and judicial review of the project decision,
20 the Secretary concerned and the resource advisory
21 committee enter into an agreement addressing, at a
22 minimum, the following:

23 “(A) The schedule for completing the
24 project.

1 “(B) The total cost of the project, includ-
2 ing the level of agency overhead to be assessed
3 against the project.

4 “(C) For a multiyear project, the esti-
5 mated cost of the project for each of the fiscal
6 years in which it will be carried out.

7 “(D) The remedies for failure of the Sec-
8 retary concerned to comply with the terms of
9 the agreement consistent with current Federal
10 law.

11 “(2) LIMITED USE OF FEDERAL FUNDS.—The
12 Secretary concerned may decide, at the sole discre-
13 tion of the Secretary concerned, to cover the costs
14 of a portion of an approved project using Federal
15 funds appropriated or otherwise available to the Sec-
16 retary for the same purposes as the project.

17 “(b) TRANSFER OF PROJECT FUNDS.—

18 “(1) INITIAL TRANSFER REQUIRED.—As soon
19 as practicable after the agreement is reached under
20 subsection (a) with regard to a project to be funded
21 in whole or in part using project funds, or other
22 funds described in section 203(a)(2), the Secretary
23 concerned shall transfer to the applicable unit of Na-
24 tional Forest System land or Bureau of Land Man-

1 agement District an amount of project funds equal
2 to—

3 “(A) in the case of a project to be com-
4 pleted in a single fiscal year, the total amount
5 specified in the agreement to be paid using
6 project funds, or other funds described in sec-
7 tion 203(a)(2); or

8 “(B) in the case of a multiyear project, the
9 amount specified in the agreement to be paid
10 using project funds, or other funds described in
11 section 203(a)(2) for the first fiscal year.

12 “(2) CONDITION ON PROJECT COMMENCE-
13 MENT.—The unit of National Forest System land or
14 Bureau of Land Management District concerned,
15 shall not commence a project until the project funds,
16 or other funds described in section 203(a)(2) re-
17 quired to be transferred under paragraph (1) for the
18 project, have been made available by the Secretary
19 concerned.

20 “(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR
21 PROJECTS.—

22 “(A) IN GENERAL.—For the second and
23 subsequent fiscal years of a multiyear project to
24 be funded in whole or in part using project
25 funds, the unit of National Forest System land

1 or Bureau of Land Management District con-
2 cerned shall use the amount of project funds re-
3 quired to continue the project in that fiscal year
4 according to the agreement entered into under
5 subsection (a).

6 “(B) SUSPENSION OF WORK.—The Sec-
7 retary concerned shall suspend work on the
8 project if the project funds required by the
9 agreement in the second and subsequent fiscal
10 years are not available.

11 **“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

12 “(a) SUBMISSION OF PROPOSED PROJECTS TO OBLI-
13 GATE FUNDS.—By September 30 of each fiscal year
14 through fiscal year 2011, a resource advisory committee
15 shall submit to the Secretary concerned pursuant to sec-
16 tion 203(a)(1) a sufficient number of project proposals
17 that, if approved, would result in the obligation of at least
18 the full amount of the project funds reserved by the par-
19 ticipating county in the preceding fiscal year.

20 “(b) USE OR TRANSFER OF UNOBLIGATED
21 FUNDS.—Subject to section 208, if a resource advisory
22 committee fails to comply with subsection (a) for a fiscal
23 year, any project funds reserved by the participating coun-
24 ty in the preceding fiscal year and remaining unobligated

1 shall be available for use as part of the project submissions
2 in the next fiscal year.

3 “(c) EFFECT OF REJECTION OF PROJECTS.—Subject
4 to section 208, any project funds reserved by a partici-
5 pating county in the preceding fiscal year that are unobli-
6 gated at the end of a fiscal year because the Secretary
7 concerned has rejected one or more proposed projects shall
8 be available for use as part of the project submissions in
9 the next fiscal year.

10 “(d) EFFECT OF COURT ORDERS.—

11 “(1) IN GENERAL.—If an approved project
12 under this Act is enjoined or prohibited by a Federal
13 court, the Secretary concerned shall return the un-
14 obligated project funds related to the project to the
15 participating county or counties that reserved the
16 funds.

17 “(2) EXPENDITURE OF FUNDS.—The returned
18 funds shall be available for the county to expend in
19 the same manner as the funds reserved by the coun-
20 ty under subparagraph (B) or (C)(i) of section
21 102(d)(1).

22 **“SEC. 208. TERMINATION OF AUTHORITY.**

23 “(a) IN GENERAL.—The authority to initiate projects
24 under this title shall terminate on September 30, 2011.

1 “(b) DEPOSITS IN TREASURY.—Any project funds
2 not obligated by September 30, 2012, shall be deposited
3 in the Treasury of the United States.

4 **“TITLE III—COUNTY FUNDS**

5 **“SEC. 301. DEFINITIONS.**

6 “In this title:

7 “(1) COUNTY FUNDS.—The term ‘county funds’
8 means all funds an eligible county elects under sec-
9 tion 102(d) to reserve for expenditure in accordance
10 with this title.

11 “(2) PARTICIPATING COUNTY.—The term ‘par-
12 ticipating county’ means an eligible county that
13 elects under section 102(d) to expend a portion of
14 the Federal funds received under section 102 in ac-
15 cordance with this title.

16 **“SEC. 302. USE.**

17 “(a) AUTHORIZED USES.—A participating county,
18 including any applicable agencies of the participating
19 county, shall use county funds, in accordance with this
20 title, only—

21 “(1) to carry out activities under the Firewise
22 Communities program to provide to homeowners in
23 fire-sensitive ecosystems education on, and assist-
24 ance with implementing, techniques in home siting,
25 home construction, and home landscaping that can

1 increase the protection of people and property from
2 wildfires;

3 “(2) to reimburse the participating county for
4 search and rescue and other emergency services, in-
5 cluding firefighting, that are—

6 “(A) performed on Federal land after the
7 date on which the use was approved under sub-
8 section (b);

9 “(B) paid for by the participating county;
10 and

11 “(3) to develop community wildfire protection
12 plans in coordination with the appropriate Secretary
13 concerned.

14 “(b) PROPOSALS.—A participating county shall use
15 county funds for a use described in subsection (a) only
16 after a 45-day public comment period, at the beginning
17 of which the participating county shall—

18 “(1) publish in any publications of local record
19 a proposal that describes the proposed use of the
20 county funds; and

21 “(2) submit the proposal to any resource advi-
22 sory committee established under section 205 for the
23 participating county.

1 **“SEC. 303. CERTIFICATION.**

2 “(a) IN GENERAL.—Not later than February 1 of the
3 year after the year in which any county funds were ex-
4 pended by a participating county, the appropriate official
5 of the participating county shall submit to the Secretary
6 concerned a certification that the county funds expended
7 in the applicable year have been used for the uses author-
8 ized under section 302(a), including a description of the
9 amounts expended and the uses for which the amounts
10 were expended.

11 “(b) REVIEW.—The Secretary concerned shall review
12 the certifications submitted under subsection (a) as the
13 Secretary concerned determines to be appropriate.

14 **“SEC. 304. TERMINATION OF AUTHORITY.**

15 “(a) IN GENERAL.—The authority to initiate projects
16 under this title terminates on September 30, 2011.

17 “(b) AVAILABILITY.—Any county funds not obligated
18 by September 30, 2012, shall be returned to the Treasury
19 of the United States.

20 **“TITLE IV—MISCELLANEOUS**
21 **PROVISIONS**

22 **“SEC. 401. REGULATIONS.**

23 “The Secretary of Agriculture and the Secretary of
24 the Interior shall issue regulations to carry out the pur-
25 poses of this Act.

1 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated such sums
3 as are necessary to carry out this Act for each of fiscal
4 years 2008 through 2011.

5 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

6 “(a) RELATION TO OTHER APPROPRIATIONS.—
7 Funds made available under section 402 and funds made
8 available to a Secretary concerned under section 206 shall
9 be in addition to any other annual appropriations for the
10 Forest Service and the Bureau of Land Management.

11 “(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—
12 All revenues generated from projects pursuant to title II,
13 including any interest accrued from the revenues, shall be
14 deposited in the Treasury of the United States.”.

15 (b) FOREST RECEIPT PAYMENTS TO ELIGIBLE
16 STATES AND COUNTIES.—

17 (1) ACT OF MAY 23, 1908.—The sixth paragraph
18 under the heading “FOREST SERVICE” in the Act
19 of May 23, 1908 (16 U.S.C. 500) is amended in the
20 first sentence by striking “twenty-five percentum”
21 and all that follows through “shall be paid” and in-
22 serting the following: “an amount equal to the an-
23 nual average of 25 percent of all amounts received
24 for the applicable fiscal year and each of the pre-
25 ceding 6 fiscal years from each national forest shall
26 be paid”.

1 (2) WEEKS LAW.—Section 13 of the Act of
2 March 1, 1911 (commonly known as the “Weeks
3 Law”) (16 U.S.C. 500) is amended in the first sen-
4 tence by striking “twenty-five percentum” and all
5 that follows through “shall be paid” and inserting
6 the following: “an amount equal to the annual aver-
7 age of 25 percent of all amounts received for the ap-
8 plicable fiscal year and each of the preceding 6 fiscal
9 years from each national forest shall be paid”.

10 (c) PAYMENTS IN LIEU OF TAXES.—

11 (1) IN GENERAL.—Section 6906 of title 31,
12 United States Code, is amended to read as follows:

13 **“§ 6906. Funding**

14 “For fiscal year 2009—

15 “(1) each county or other eligible unit of local
16 government shall be entitled to payment under this
17 chapter; and

18 “(2) sums shall be made available to the Sec-
19 retary of the Interior for obligation or expenditure in
20 accordance with this chapter.”.

21 (2) CONFORMING AMENDMENT.—The table of
22 sections for chapter 69 of title 31, United States
23 Code, is amended by striking the item relating to
24 section 6906 and inserting the following:

“6906. Funding.”.

25 (3) BUDGET SCOREKEEPING.—

1 (A) IN GENERAL.—Notwithstanding the
2 Budget Scorekeeping Guidelines and the accom-
3 panying list of programs and accounts set forth
4 in the joint explanatory statement of the com-
5 mittee of conference accompanying Conference
6 Report 105–217, the amendment made by para-
7 graph (1) shall be treated in the baseline for
8 purposes of section 257 of the Balanced Budget
9 and Emergency Deficit Control Act of 1985 (2
10 U.S.C. 907) (as in effect before September 30,
11 2002), by the Chairpersons of the Committee
12 on the Budget of the House of Representatives
13 and the Committee on the Budget of the Sen-
14 ate, as appropriate, for purposes of budget en-
15 forcement in the House of Representatives and
16 the Senate, and under the Congressional Budg-
17 et Act of 1974 (2 U.S.C. 601 et seq.) as if Pay-
18 ment in Lieu of Taxes (14-1114-0-1-806) were
19 an account designated as Appropriated Entitle-
20 ments and Mandatories for Fiscal Year 1997 in
21 the joint explanatory statement of the com-
22 mittee of conference accompanying Conference
23 Report 105-217.

24 (B) EFFECTIVE DATE.—This paragraph
25 shall—

- 1 (i) be effective beginning on the date
2 of enactment of this Act; and
- 3 (ii) remain in effect for any fiscal year
4 for which the entitlement in section 6906
5 of title 31, United States Code (as amend-
6 ed by paragraph (1)), applies.